

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

UNITED STATES OF AMERICA	)	
	)	
	)	
v.	)	
	)	CR 117-34
	)	
REALITY LEIGH WINNER,	)	
	)	
Defendant.	)	

**GOVERNMENT’S RESPONSE TO DEFENDANT’S MOTION TO SUPPRESS
DEFENDANT’S STATEMENTS (DKT. 63)**

NOW COMES the United States of America, by and through Bobby L. Christine, United States Attorney for the Southern District of Georgia, in response to Defendant Reality Leigh Winner’s Motion to Suppress Defendant’s Statements (Dkt. 63), and shows as follows:

I. PROCEDURAL HISTORY

On June 3, 2017, the Defendant was arrested after federal agents executed a search warrant at her residence for evidence of, *inter alia*, violations of Title 18, United States Code, Section 793(e) (Willful Retention and Transmission of National Defense Information) (hereinafter, “Section 793(e)”). During the execution of the warrant, the Defendant admitted to committing that crime. The Defendant was arrested and charged by criminal complaint on June 5, 2017, with one count of violating Section 793(e). On June 7, 2017, a grand jury in the Southern District of Georgia returned a one-count indictment charging the Defendant with violating Section 793(e). Dkt. 13. On June 8, 2017, the Defendant entered a plea of not guilty to

the charge.¹ Dkt. 26. On August 29, 2017, the Defendant filed a Motion to Suppress Defendant's Statements and Request for Evidentiary Hearing, Dkt. 63, and the Government now responds.

II. STANDARDS AND BURDENS OF PROOF

Law enforcement officers interviewing a subject are not required to provide warnings pursuant to *Miranda* unless the subject is "in custody." *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). A defendant claiming to have been interrogated in a custodial setting bears the burden of proving, by a preponderance of the evidence, that she was under arrest or subjected to the functional equivalent thereof at the time the challenged statements were made. *United States v. de la Fuente*, 548 F.2d 528, 533 (5th Cir. 1977);² *United States v. Peck*, 17 F. Supp. 3d 1345, 1354 (N.D. Ga. 2014) (listing jurisdictions applying the burdens of proof set forth in *de la Fuente*); *United States v. Morris*, 491 F. Supp. 226, 229 (S.D. Ga. 1980).

Whether a defendant was in custody during an interview is a fact-specific determination based on the totality of the circumstances. *United States v. Street*, 472 F.3d 1298, 1309 (11th Cir. 2006). This test is objective and examines the circumstances from the perspective of a "reasonable innocent person." *Id.*; see *Florida v. Bostick*, 501 U.S. 429, 437-38 (1991); *Berkimer v. McCarty*, 468 U.S. 420, 422 (1984); *United States v. Luna-Encinas*, 603 F.3d 876, 881 (11th Cir. 2010).

¹ The Defendant was subsequently charged with one count of violating Section 793(e) in a superseding indictment that did not differ substantively from the original indictment.

² *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc) (adopting for the Eleventh Circuit as binding precedent all decisions rendered by the United States Court of Appeals for the Fifth Circuit prior to September 30, 1981).

Courts apply a two-step analysis to determine whether a subject was “in custody” and therefore entitled to pre-interview warnings for the purposes of *Miranda*. The “initial step is to ascertain whether, in light of ‘the objective circumstances of the interrogation,’” a ‘reasonable person [would] have felt he or she was not at liberty to terminate the interrogation and leave.’” *Howes v. Fields*, 565 U.S. 499, 509 (2012) (citations omitted; alteration in original). Critically, however, the “freedom-of-movement” test is not dispositive. Rather, courts ask the additional question “whether the relevant environment presents the same inherently coercive pressures as the type of station house questioning at issue in *Miranda*.” *Fields*, 565 U.S. at 509; *see also California v. Beheler*, 463 U.S. 1121, 1125 (1983) (“[T]he ultimate inquiry is simply whether there is a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest.” (internal quotations omitted)); *Luna–Encinas*, 603 F.3d at 881.

To evaluate whether a defendant was subjected to coercion or restraint equal to that of a formal arrest, courts in the Eleventh Circuit examine factors such as whether law enforcement officers “brandished weapons, touched the suspect, or used language or a tone that indicated that compliance with the officers could be compelled.”³ *Street*, 472 F.3d at 1309 (citations omitted); *see United States v. Hill*, No. CR 114–028, 2014 WL 5410214, at *10 (S.D. Ga. Oct. 23, 2014). Other relevant factors include “the location of the interview, the existence of physical restraints such as handcuffs or drawn weapons, [and] whether the suspect asked to leave.” *United States v. Dix*, No. 3:12–cr–00007–TCB–RGV, 2013 WL 610219, at *3 (N.D. Ga. Jan. 29, 2013), *adopted by* 2013 WL 609458 (Feb. 19, 2013); *see also Fields*, 565 U.S. at 509 (“Relevant factors include

³ Law enforcement officers do not create a “custodial” situation merely by interviewing an individual, even if the individual is aware of his or her status as a suspect. *United States v. Matcovich*, 522 F. App’x 850, 851 (11th Cir. 2013) (citing *United States v. Muegge*, 225 F.3d 1267, 1270 (11th Cir. 2000)).

the location of the questioning, its duration, statements made during the interview, the presence or absence of physical restraints, and the release of the interviewee at the end of the questioning.” (citations omitted)); *Luna-Encinas*, 603 F.3d at 881 (including “location and length of the detention” as well); *Matcovich*, 522 F. App’x at 851.

The fact that a defendant is questioned in her own home weighs heavily against a finding of custody. *United States v. Brown*, 441 F.3d 1330, 1348 (11th Cir. 2006) (“[C]ourts are *much less likely* to find the circumstances custodial when the interrogation occurs in familiar or at least neutral surroundings, such as the suspect’s home.” (emphasis in original; internal quotations marks and citations omitted)); *see also United States v. Craighead*, 539 F.3d 1073, 1083 (9th Cir. 2008) (“[C]ourts have generally been much less likely to find that an interrogation in the suspect’s home was custodial in nature.” (citations omitted)).

Notably, detention during the execution of a search warrant is “substantially less intrusive than an arrest” and does not, on its own, constitute custody for *Miranda* purposes. *Dix*, 2013 WL 610219, at *4 (“To hold that detention of a suspect while executing a lawful warrant . . . is the legal equivalent of custody for *Miranda* purposes would run contrary to the Eleventh Circuit’s direction to consider the totality of the circumstances.” (citation omitted)). In that regard, even when a defendant’s freedom of movement is lawfully curtailed, such as during a traffic stop or the execution of a search warrant, courts have “decline[d] to accord talismanic power” to the freedom-of-movement inquiry. *McCarty*, 468 U.S. at 437. Rather, “the freedom-of-movement test identifies only a *necessary* and *not a sufficient* condition for *Miranda* custody.” *Maryland v. Shatzer*, 559 U.S. 98, 112 (2010) (emphasis added). During such detention, a defendant is not “in custody” for *Miranda* purposes as long as the environment does not present “the same inherently coercive pressures as the type of station house questioning at

issue in *Miranda*.” *Fields*, 565 U.S. at 509; *see also Luna–Encinas*, 603 F.3d at 881; *Bird*, No. 3:17-cr-1, Dkt. 74, at 36 (“[M]inor restraints on freedom of movement generally do not convert a non-custodial setting to a custodial setting.”).

III. ATTACHMENTS IN SUPPORT OF RESPONSE

- A.** Recorded Interview of Defendant, June 3, 2017 (redacted)
- B.** Transcript of Interview of Defendant, June 3, 2017 (redacted)⁴
- C.** Photographs taken during search on June 3, 2017
- D.** Recorded Phone Calls of Defendant
- E.** Partial Transcripts of Recorded Phone Calls of Defendant
- F.** Sketch of Defendant’s Residence Created June 3, 2017

IV. SUMMARY OF ARGUMENT

The Defendant was not in custody during her interview with Federal Bureau of Investigation (“FBI”) agents at her home on June 3, 2017. The Defendant, in response to the agents’ noncoercive invitation to speak, agreed and decided to speak with them in her own home. The agents did not restrain the Defendant in any way or tell her where to go, did not brandish weapons, yell, make pointed accusations, or use foul language. They told the Defendant several times that her participation in the interview was voluntary. To be sure, agents possessed a search warrant for the Defendant’s person, but the purpose of that warrant was satisfied upon the Defendant’s surrender of her cellular phone. The Defendant never asked agents about the status of that search or whether she could depart the premises. Moreover, the Defendant never asked to terminate her interview, speak with an attorney, or otherwise remove herself from the agents’

⁴ For the ease of use, the Government refers to Attachment B herein as “USAO-,” followed by the applicable page number in the Attachment’s lower right corner.

presence. The objective facts of the interview environment, as well as the Defendant's own conduct, establish that a reasonable person would have felt free to terminate the encounter.

Even assuming, *arguendo*, that a reasonable, innocent defendant would not have felt free to leave the premises or otherwise terminate her encounter with agents on June 3, 2017, the circumstances still did not present the same inherently coercive pressures as an arrest or the type of station house questioning at issue in *Miranda*. The Defendant moved about her home letting her dog out, putting away her groceries, and putting a leash on her cat. Agents brought the Defendant (and her dog) water and told her to let them know if she wanted to go to the restroom. The Defendant stood in a room with an open, unimpeded doorway and nearby access to the outside. The entire conversation was conducted in a calm, cordial tone. No one demanded the Defendant's compliance at any time – to the contrary, agents reminded the Defendant multiple times that her participation was voluntary and that no one would force her to do anything.

Under the totality of the circumstances, a reasonable, innocent person in the Defendant's position on June 3, 2017, would not have understood her freedom of action to have been curtailed to a degree associated with a formal arrest. Thus, the Defendant was not in custody, *Miranda* warnings were not required, and the Defendant's motion to suppress should be denied.

V. FACTUAL BACKGROUND⁵

On June 3, 2017, based upon an application and sworn affidavit presented by FBI Special Agent (SA) Justin C. Garrick, this Court issued a search warrant for the Defendant's residence, her vehicle, and her person. Dkt. 1, 2. The warrant authorized agents to search for and seize, *inter alia*, classified and other U.S. Government-owned material, contacts with foreign agents or media outlets, travel and financial information, and any information regarding tradecraft or a motive to commit the alleged offense. Dkt. 2-2.

At approximately 3:30 p.m. on June 3, 2017, an FBI surveillance team notified SA Garrick and FBI SA R. Wallace Taylor that the Defendant was headed home from a grocery store in her personal vehicle. SAs Garrick and Taylor, who were stationed along a nearby road in an unmarked vehicle, watched the Defendant pull into her driveway from the main roadway and park. The agents pulled into the Defendant's driveway from the access road, parked approximately five to ten yards in front of the Defendant's car without blocking it in, and began walking towards her vehicle. SA Garrick activated a handheld recording device to memorialize his and other agents' interactions with the Defendant.

⁵ The Defendant's motion describes the Defendant's interview with the FBI inaccurately in several important respects. The first page alone of the Defendant's motion is replete with false statements and gross mischaracterizations. For example, the Defendant claims to have been "confronted" by ten officers, Dkt. 63-1 at 1, when she was in fact so gently approached (by only two FBI agents) that she thought they were interested in renting her house. She claims that she advised the agents that she would "rather not go into" the room in which she was interviewed, *id.*, but in fact, after the agents asked where they could speak privately, the Defendant suggested that room. She appears to complain that the room was "unfurnished," *id.* at 2, but she herself not only suggested the room, but also joked that she was "not big on furniture." Finally, she claims that her "two questioners" blocked her exit, *id.*, which is not true—her path to the exit was unobstructed during her interview. Rather than providing a point-by-point refutation of all of the Defendant's misstatements of fact, the government respectfully submits that the interview transcript, audio recording, and photographs speak for themselves and demonstrate to the Court that the Defendant's dramatic, self-serving statements should not be credited.

SAs Garrick and Taylor, dressed in casual, short-sleeved shirts and khaki pants, approached the Defendant at a walking pace as she stepped out of her vehicle. Neither agent wore a visible weapon or displayed a weapon to the Defendant. Instead, both agents displayed their FBI credentials as they introduced themselves and asked the Defendant how her day was going.⁶ The agents told the Defendant the reason for their visit was a search warrant, which pertained to “possible mishandling of classified information.” USAO-08108. SA Garrick offered to show the Defendant the warrant, and stated, “What I’d like to do is sit down, talk with you a—talk with you about it.” *Id.* The Defendant responded, “Mm-hmm.” SA Garrick then stated, “Kind of go over what—what’s going on. Uh, talk to you, kind of get your—your side of it. And, of course, you – completely voluntary to talk to me.” *Id.* SA Garrick then told the Defendant that she could speak to the agents either at her home or at the FBI office, five minutes away. *Id.* The Defendant responded, “Okay.” USAO-08109.

SA Taylor then asked the Defendant if she had any pets. The Defendant responded that she had two, and SA Garrick asked if they needed to be let out to go to the bathroom. *Id.* The Defendant asked if she could put her groceries in the refrigerator.⁷ *Id.* The agents told her they

⁶ The gentle nature of the agents’ approach is underscored by the Defendant’s statements during her interview. For example, when asked by SA Garrick whether she was surprised to see agents that day, the Defendant replied, “Yeah. Actually, I thought that [laughs], uh, you were people coming to ask about the house, because it’s still for lease online. . . . and then FBI. I was like, what is going on, you know? And you showed me your badge right up, and, uhm, I submitted a security packet yesterday, uh, for my clearance on E-QIP. So, uh, that’s what I thought it was for. I’m like, ‘why are you guys going to question me for my own clearance?’” USAO-08174.

⁷ The transcript reflects that different voices were speaking over each other, and the Defendant then said “I do,” before asking about the groceries. The Defendant put her dog in the fenced yard, and agents later gave it water.

needed to check the house first to make sure it was safe, but that the Defendant could go in and get her dog if she chose. USAO-08109-10.

The agents asked the Defendant for her house key and told her the search warrant also included her car. USAO-08111. They also asked the Defendant to provide her cellular phone, which she did.⁸ *Id.* SA Taylor then reiterated, “but like he said, we’re – we’re completely voluntary, completely up to you on . . . but, you know, I think maybe it – it’d be worth your time to listen at least for a little bit.”⁹ *Id.* The Defendant replied, “[d]efinitely.” *Id.*

The agents went inside with the Defendant as she detailed where she kept her three firearms. They asked her not to touch the firearms, but told her that, as she requested, she could put the dog in the backyard and then put her groceries in the refrigerator. USAO-08112-13. They informed her “we’re probably going to have a few more people showing up here directly,” to which the Defendant replied, “of course.” USAO-08113-14.

As the Defendant escorted her dog through the house to the front door, SA Garrick called to the dog, “Hey sweetie – hey sweetie.” USAO-08114. The Defendant announced she also had a cat who was most likely under her bed. She asked, “can I close the door for my cat?” to which SA Taylor replied, “yep.” USAO-08115.

The Defendant then removed her groceries from her car as other agents and FBI personnel began arriving at the residence. USAO-08117. SA Garrick explained that SA Taylor and another agent were going to walk through the house “just checking to make sure there’s nobody else in there or nothing – surprise – surprise us or anything like that.” USAO-08117.

⁸ At this point, the agents’ “search” of the Defendant’s person was complete.

⁹ Inexplicably, in her declaration, the Defendant in the same paragraph both concedes that agents “advised meeting with [them] was voluntary” and claims that she was not told she could decline the interview. Dkt. 64 at ¶ 5.

The Defendant stated, “I want to make this as easy for you guys as possible,” *id.*, and SA Garrick replied, “Okay. Likewise. So, hopefully, explain things, get to, uh, figure this all out and, uh, wrap it up.” *Id.*

Each of the law enforcement personnel who arrived at the house was dressed in a short-sleeved shirt and casual pants. None of the search participants, including SAs Garrick and Taylor, wore tactical gear, “FBI” raid jackets or hats, or anything else boldly announcing their law enforcement affiliation. Only two of the ten law enforcement officers or agents who arrived at the home were visibly armed, carrying handguns holstered at their waists.¹⁰ None of the agents who were armed ever unholstered a weapon, or even touched a weapon, in the Defendant’s presence.

For about 90 seconds, as additional search personnel arrived and entered the house, SA Garrick and the Defendant talked outside about their respective rescue dogs. USAO-08117. Once the agents confirmed that the Defendant’s house was clear of additional persons or items of immediate concern, agents helped the Defendant put her groceries in the refrigerator. When she finished, the agents asked her to step back outside so the search team could photograph the interior of the house. USAO-08118. SAs Garrick and Taylor briefed arriving agents, letting them know there was a cat and a dog on the premises, and SA Garrick asked the Defendant whether her dog needed some water. The Defendant declined the offer. USAO-08121.

¹⁰ Nine of the ten agents who arrived at the scene carried weapons. One agent and one additional person assisting the agents and officers, an FBI Intelligence Analyst, were unarmed.

As other agents began photographing the house prior to the search,¹¹ SA Garrick asked the Defendant whether she preferred to talk at the house or at the FBI office. The Defendant replied, “let’s go ahead and talk here.” USAO-08121. When asked whether she had a room in the house that was private, the Defendant offered “a spare bedroom that I don’t use that’s empty.” USAO-08121. She added, “I don’t like to go in there.” *Id.* SA Garrick asked, “you said you don’t like to go in there. What –” and the Defendant interrupted, “Oh, gosh, it’s just creepy. It’s just weird. It’s like an addition to the house behind the kitchen and it’s always dirty. . . .” and she laughed. USAO-08122. SA Garrick said, “we can talk back there if you’re fine going back there,” to which the Defendant immediately responded, “Yeah, we can go back there.” *Id.*

Agents continued to document the exterior and interior of the house while the Defendant remained outside. Search participants asked her for the keys to her car and the password for her phone, both of which she provided. USAO-08123. The Defendant engaged in lighthearted conversation with SA Garrick about her time in Augusta, her various job aspirations, her language skills, and her military background. USAO-08124-27. During their conversation, an agent approached the Defendant and asked again whether her dog was okay, and whether it needed anything. The Defendant said the dog was “fine,” to which SA Garrick remarked, “if you can tell, we’re all dog people.”¹² USAO-08127.

¹¹ Notably, one of the first photos taken by the FBI at the search shows the Defendant leaning against the side of the house, by herself, unrestrained, with her feet casually crossed. *See* Attachment C at 1.

¹² The agents’ concern for the Defendant’s pets was evident to the Defendant, as evinced by the Defendant’s subsequent statement to her mother during a recorded phone call that “I had a bunch of FBI guys worrying about my dog. Like they were freaking out about my dog.” Attachment D-1 at 1:43-3-36. She told her sister in another recorded call that “[e]verybody was really

After more casual conversation about dogs, various places to live, and workout routines, USAO-08128-32, the Defendant asked whether the search “was going to be like an ‘I-brought-my-phone-into-the-building’-type situation where I don’t see that phone for three weeks, or,” USAO-08133, as she said she was going to teach yoga the next day and had her music stored on the phone. *Id.* SA Garrick replied that the phone fell within the warrant, and that he would explain everything to her once they sat down. *Id.* The Defendant indicated that she could “make do” without the phone. *Id.* The Defendant laughed and said that they would probably have to sit on the floor, because she was “not big on furniture.” *Id.*

As agents tried to find chairs to bring inside the house, the Defendant asked whether she could go into the bedroom and put a leash on her cat. USAO-08133-34. SAs Garrick and Taylor told her that was not a problem, so the Defendant went inside, walked into the bedroom, crawled under the bed, and tethered her cat to the bedpost. USAO-08136. She then accompanied SAs Garrick and Taylor to the rear bedroom, apologizing for it being “dirty,” although the room contained nothing more than a folded dog crate leaning against a wall. *See* Attachment C at 2-5.

The Defendant and SAs Garrick and Taylor entered the rear bedroom, which measured approximately 10.5 feet long by 7 feet wide and had two large windows.¹³ *See* Attachment C-3; *see also* Dkt. 64 ¶ 6. The window blinds were already down and closed. SA Garrick looked inside a small closet and closed the closet door. Without any direction from the agents, the Defendant chose to stand against the south wall of the room. SA Garrick stood opposite her on

worried about [my pets] when they searched my house. Bunch of dog people.” Attachment D-2 at 7:53-8:38.

¹³ These measurements were provided by counsel for the Defendant on October 27, 2017, after the Defendant’s mother indicated, through counsel, that she would not allow the FBI into the residence to measure the room.

the north wall, and SA Taylor stood with his back against the west wall. *See* Attachment F. The door to the room, located on the east wall (adjacent to the Defendant), remained completely open,¹⁴ and an exterior door leading to the back yard was approximately four feet away directly across from the doorway. The exterior door contained a window with blinds that were partially raised. *See* Attachment C at 2, 4-5. The agents did not stand between the Defendant and the exterior door, and neither the bedroom door nor the exterior door was blocked at any time during the Defendant's conversation with the agents. The Defendant was unrestrained, having never been handcuffed or even touched by any of the law enforcement personnel on the premises.

SA Garrick reintroduced himself (as "Justin") and SA Taylor (as "Wally"), and offered to show the Defendant a copy of the search warrant and explain it to her. He added, "[n]ow, if you're willing to talk with me, like to go through just kind of how this started and, you know, get your side of it and figure out what's going on here. Okay – does that sound good to you?" USAO-08137. The Defendant replied "Okay. . . . Yes." *Id.* While asking background questions about the Defendant's date of birth and Social Security number, SA Garrick asked if she was thirsty. She said she was not, and SA Garrick told her "[i]f you need water, just shout it out." *Id.* He also told her "if you need to use the restroom, any of that, let me know. It's not a big deal." USAO-08138. SA Garrick further told the Defendant "if you do feel like, you know, you want to sit or anything like that, we'll sit, okay? You know, we can sit on the floor, I don't care. Uhm, if you sit on the floor, I'll sit on the floor." USAO-08139. The Defendant laughed, and SA Garrick again offered to sit. *Id.*

¹⁴ This fact is corroborated by a considerable amount of background noise that can be heard on the recording as other law enforcement personnel in adjacent rooms speak to each other and move items.

SA Taylor then explained the components of the search warrant and told the Defendant that the Court had given the agents authority to search the premises, the Defendant's vehicle, and the Defendant. USAO-08139-40. The Defendant made a joke about her weight as listed in the warrant, and then said, "Sorry. I have a sense of humor." USAO-08140. SA Taylor also explained the list of property agents were authorized to search for and seize, adding, "[n]ot saying all of that's here, but that's what we're authorized to search for. . . . [a]nd seize." *Id.* SA Taylor provided the Defendant with a copy of the warrant and offered to answer any questions; the Defendant said she did not have any. USAO-08141.

SA Garrick then stated, "this stems from a report that you had mishandled classified information, okay? So, that's, uh, the broad scope of it . . . does that ring any bells to you whatsoever?" *Id.* The Defendant recounted, in detail, a security incident in February 2017 in which she accidentally removed classified information from the secure portion of her work building to a non-secure area of the same building. USAO-08141-42.

For the next nine minutes, SA Garrick chatted casually with the Defendant about her job assignments, her neighborhood, and her travel. USAO-01843-51. During that conversation, SA Garrick asked gentle questions about whether the Defendant could recall ever accessing classified information beyond her "need to know" or sharing classified information with unauthorized persons. USAO-08146-47, 08151. The Defendant said she never searched for or printed information beyond her job assignments, other than helping fellow employees in Maryland, USAO-08146, did not send or otherwise remove classified information from her work building, *id.*, and did not discuss classified or other work matters with anyone outside of work. USAO-08147.

When asked, “[s]o you’re positive you’ve never printed anything out that was outside of your work role?” the Defendant recounted printing articles from NSA Pulse, a classified intelligence report storage system, which she claimed she used as “scratch paper” and reference material. USAO-08151. She maintained, however, that she always properly disposed of the reports in the burn bag and had never removed anything from the building. *Id.* The Defendant laughed, and joked that her use of so much paper was “probably fraud, waste and abuse right there.” *Id.*

The agents told the Defendant they were “not worried about fraud, waste and abuse.” *Id.* Instead, SA Garrick asked, “Reality, what if I told you I have information to suggest that you did print out stuff that was outside of that scope?” USAO-08152. The Defendant stated, “Okay. I would have to try to remember.” *Id.* Before the Defendant answered further, SA Taylor stated:

Reality – uh – you know – we obviously know a lot more than – than what we’re telling you at this point. And I think you know a lot more than you’re telling us at this point. I don’t want you to go down the wrong road. I think you need to – to stop and think about what you’re saying and what you’re doing. Uhm – you know – I – I think it’s a – an opportunity to maybe tell the truth. Because, uh, telling a – telling a lie to an FBI agent is not going to be the right thing.

Id. The Defendant replied, “Mm-hmm.” SA Taylor added, “Okay? Uhm, you know – and again – we’re here voluntarily. You’re talking voluntarily. I’m not asking you – forcing you to do anything.” *Id.*

The Defendant then admitted she had accessed and printed a particular report from the NSA Pulse system. USAO-08152-53. She described the general content of the report and initially said she printed it because it was hard for her to read the electronic download, and because “it looked like a piece of history.” USAO-08153. She claimed to have read only half of it, kept it on her desk for a few days, and then disposed of it in the burn bag. USAO-08154, 08156-57, 08159. Eventually, the Defendant stated that before

she put the report in the burn bag, she “folded it in half.” USAO-08160. The Defendant then provided the following answers to the agents’ questions:

SA Garrick: Okay. What if I tell you that document, folded in half, made its way outside of NSA?

Defendant: I don’t – I don’t know – that.

SA Garrick: It made its way out in an envelope, post-marked Augusta, Georgia. See, things are starting to get a little specific.

Defendant: Okay.

SA Garrick: It made its way to an online news source that you subscribe to. Getting really specific. I’m going to ask you again.

[Pause]

SA Garrick: What is very, very, very compelling, I’d like to know the reason, because I don’t think – I don’t think you make it a habit out of this at all. At all, I really do. I think you just messed up. Now, I’m not quite sure why you did it, and I’d like to hear from you on that, but w-the what and the how is – would you agree, looks awfully bad?

Defendant: It looks really bad.

SA Garrick: If you’re angry about what’s going on, if there’s something that – look, you’ve had a good career. You have. If there’s something that just pushed you over the edge on this, now is the perfect time. This is a podium.

SA Taylor: You know, like he said, I – I don’t think we’re coming in here to say you’re some big bad mastermind -

Defendant: All right.

SA Taylor: - prolific spy kind of thing. I – I think what we both think is that maybe you made a mistake. Maybe you weren’t thinking for a minute. Maybe you got angry, like he said. I mean, that- that’s – that’s what I’m hoping. If that’s – that’s the case, then that makes us feel a little better knowing that we don’t have a – a real serious problem here. You know, uh – uh that’s something that concerns us, too,

this isn't an ongoing problem. But we need to figure it out.
And if it was a mistake, let's deal with it.

[Pause]

SA Garrick: So how did you get it out of the office?

Defendant: Folded in half in my pantyhose.¹⁵

SA Garrick: And what did you do with it?

Defendant: Put it in an envelope and sent it to [NAME
REDACTED].

USAO-08160-62.

Neither SA Garrick nor SA Taylor ever raised his voice above a quiet, conversational tone during this exchange. Neither agent physically approached the Defendant, touched her, restrained her, brandished a weapon, or blocked her egress from the room. Neither agent ever indicated to the Defendant at any point during the conversation that she was under arrest, would be arrested at any point, or was not free to terminate the encounter at will. The Defendant never asked to end the conversation, leave the room, or leave the premises.

The Defendant spent the next five minutes discussing with SAs Garrick and Taylor the specific way in which she mailed the document to a news outlet, how she found a mailing address, the date she mailed the document, and the fact that the Defendant wanted the news outlet to publish the document. USAO-08163-65. The agents then brought the Defendant a glass of water and talked with her about her cat. USAO-08166-68. The Defendant joked about her cat's weight and eating habits. USAO-08167-68.

After approximately five more minutes of conversation about other issues, SA Garrick asked, "Uhm, in regards to the document that you did put out, when you – did you realize that –

¹⁵ The Defendant made this admission approximately 34 minutes after the start of the interview.

the technical capabilities in that article?” USAO-08172. The Defendant replied, “[s]ources and methods.” *Id.* SA Garrick inquired, “did you know that if that got out, that those sources and methods could be compromised?” *Id.* The Defendant responded, “If they haven’t been already, then yes.” *Id.*

In wrapping up the conversation with the Defendant less than one hour after entering the room, SA Garrick explained how the search team was going to finish their searches of the house and the vehicle. USAO-08176. When asked if she had any questions for the agents, the Defendant asked, “This – this sounds really bad. Am I going to jail tonight?”¹⁶ USAO-08178. SA Garrick truthfully responded, “I don’t know the answer to that yet.”¹⁷ *Id.* The Defendant then asked the agents about making some phone calls to arrange for care of her pets. *Id.* They told her they were unsure whether that would be necessary (as they did not know whether she would be arrested), but assured the Defendant they would help her take care of her pets if needed. USAO-08178-81. SA Taylor reiterated that the agents “truly [didn’t] know at this point” whether the Defendant would be arrested, and said, “I don’t really know that it’s really our decision at this point.” USAO-08181. SA Garrick confirmed, “and it’s not – it’s not.” USAO-08182.

The agents told the Defendant they needed to make some calls, and the Defendant asked to use the restroom. *Id.* After SA Garrick ensured the search team was “done, out of the

¹⁶ This was the first indication that the Defendant even considered the possibility she would be arrested. Indeed, she had stated earlier belief that she would need her cellular phone to teach a yoga class the next day, and she ultimately assessed that she could “make do” without it. USAO-08133.

¹⁷ Indeed, SA Garrick had arranged for an undercover surveillance team to wait nearby in anticipation of the Defendant’s departure from the premises.

bathroom, so we can give you privacy,” *id.*, the Defendant used the restroom alone, unsupervised, behind the closed door. As she did so, SA Garrick ended the recording at 5:17 pm on June 3, 2017, one hour and twenty-eight minutes after his initial arrival on scene and first encounter with Defendant Winner. Agents continued to search the house. The Defendant stood in the front yard for a while, then asked a Task Force Officer who was searching her car if she (the Defendant) could sit with her dog in the backyard. He told her, “sure, go ahead,” or words to that effect.¹⁸

SA Garrick was instructed by telephone to arrest the Defendant.¹⁹ SA Garrick did so by informing the Defendant that she was being placed under arrest, but told her he was not going to handcuff her or search her. SA Garrick explained that county deputies were going to transport the Defendant, and that they might search her before she was placed in their vehicle. While waiting for the police transport, SA Taylor assisted the Defendant in making a call to her stepfather to let him know what was happening, and a call to an acquaintance who would care for her pets.

When deputies arrived to transport the Defendant to the Lincoln County Jail, SA Garrick asked the officers to handcuff the Defendant in front of her body so she would not be too uncomfortable during the approximately 40-minute ride. None of the federal law enforcement personnel ever physically searched – or even touched – the Defendant, because the authorized “search” of the Defendant was complete once she provided her cellular telephone to the FBI.

¹⁸ The Defendant confirmed this to her mother, whom she told, “They let me hug [the dog] while we were waiting. They were searching the house, and I just went in the backyard and sat with her.” Attachment D-3 at 13:24-13:56.

¹⁹ During this time, the Defendant continued to sit in the backyard with her dog.

VI. ARGUMENT AND CITATION TO AUTHORITY

As discussed in Section II above, a defendant seeking to suppress a statement to law enforcement officers based on the absence of *Miranda* warnings must prove by a preponderance of the evidence that she was in custody. Even if a reasonable, innocent person in a defendant's position would not have felt free to terminate the interview or leave, not every detention or restriction on movement constitutes "custody" for *Miranda* purposes. See *Fields*, 565 U.S. at 509; *Luna-Encinas*, 603 F.3d at 881; *Bird*, 3:17-cr-1, Dkt. 72, at 32. Critically, when the Defendant argues that "custody" occurs when a reasonable, innocent person would not have felt free to leave, see Dkt. 63-1 at 7, the Defendant only cites the first step of a two-step inquiry. The "ultimate inquiry," however, "is whether there is a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest." *Yarborough v. Alvarado*, 541 U.S. 652, 662 (2004) (citation omitted); see *Luna-Encinas*, 603 F.3d at 881; *Brown*, 441 F.3d at 1347; *United States v. Colon*, 579 F. App'x 791, 792 (11th Cir. 2014).

As the facts described above demonstrate, and as the audio recording of the interview further supports, a reasonable, innocent person in the Defendant's position would have felt free to terminate the interview and leave. She was thus not "detained," and there is no reason for the Court to proceed beyond the "initial step" of determining whether a reasonable person would have felt free to terminate the encounter. *Fields*, 565 U.S. at 509; see *Street*, 472 F.3d at 1310. Even if the Defendant's freedom to leave or terminate the interview had been restricted, however, any limitation would not have risen to the level of "custody" because a reasonable, innocent person in the Defendant's position would not have perceived a restraint on her freedom of movement to the degree associated with a formal arrest. *Beheler*, 463 U.S. at 1125; *Street*, 472 F.3d at 1310.

Although, as described above, courts generally refer to an “initial step” of determining whether a defendant was detained at all, and an “ultimate inquiry” as to whether that detention rose to the level of custody for *Miranda* purposes, both analyses objectively examine the totality of circumstances, and courts apply similar factors to both assessments. *See, e.g., United States v. Miller*, 2015 WL 8578649, *4-5 (S.D. Ga. Dec. 9, 2015). Those factors, discussed below, establish that the Defendant in this case was not detained, let alone “in custody,” when she spoke with the agents. The Defendant’s arguments to the contrary are unpersuasive. As explained with respect to those factors, the extreme cases the Defendant cites are readily distinguishable and further illustrate the difference between custodial questioning and the FBI’s interview of the Defendant. Moreover, the Defendant’s arguments do not appropriately consider the totality of the circumstances.

A. An Examination of Relevant Factors Shows That the Defendant Was Not Detained and Was Not in Custody

As described above, in the Eleventh Circuit, notable factors for a court to consider in determining whether a defendant is detained or in custody include: (1) whether officers brandished weapons; (2) whether officers touched the defendant; (3) whether officers used language or tone indicating that they could compel compliance; (4) the location of the interview (with defendants’ homes generally being considered non-custodial); (5) the use of handcuffs, drawn weapons, or other physical restraints; (6) requests by a defendant to leave; (7) the duration of questioning; (8) statements made during the interview; and (9) whether the defendant was released at the end of the interview. *Luna-Encinas*, 603 F.3d at 881; *Street*, 472 F.3d at 1309; *Brown*, 441 F.3d at 1348; *Matcovich*, 522 F. App’x at 851; *Bird*, 3:17-cr-1, Dkt. 74, at 31-32; *Miller*, 2015 WL 8578649, at *4-5; *Hill*, 2014 WL 5410214, at *10; *Dix*, 2013 WL 610219, at *3; *see also Fields*, 565 U.S. at 509. Each of these factors, independently and in combination,

demonstrates that the Defendant was not detained or in custody when she spoke with SAs Garrick and Taylor.

1. *The Officers Approached the Defendant Casually and Did Not Brandish Weapons*

As to the first factor, the FBI agents who interviewed the Defendant and executed the search warrant never brandished weapons. To the contrary, their approach was informal and relaxed. The Defendant's motion paints a wholly inaccurate picture of how the agents encountered and interviewed her when she arrived home from the grocery store on June 3, 2017. Rather than coming home and being "confronted with ten armed male law enforcement agents," Dkt. 63 at 1; 63-1 at 3, 12, two agents clothed in khaki pants and short-sleeved shirts, whose weapons were not visible, approached the Defendant in a friendly manner. The approach was apparently so low-key that the Defendant initially mistook the agents for "people coming to ask about the house, because it's still for lease online." USAO-08174. Even when the agents showed the Defendant their FBI credentials, the Defendant still assumed they had come to conduct a routine interview about her security clearance application.

This is hardly the approach encountered by defendants in the cases the Defendant cites. In *United States v. Craighead*, 539 F.3d 1073 (9th Cir. 2008), for example, eight armed agents and two non-agents representing three different agencies confronted the defendant at 8:40 a.m. in his base housing unit. *Id.* at 1078. All of the FBI agents were wearing flak jackets or "raid vests," and some of the armed agents unholstered their firearms in the defendant's presence during the search. *Id.* In *United States v. Colonna*, 511 F.3d 431 (4th Cir. 2007), the defendant was awakened in his home at gunpoint at approximately 6:30 a.m. after agents – some number of the 24 on the premises – kicked open his bedroom door. *Id.* at 433.

In *United States v. Hashime*, 734 F.3d 278 (4th Cir. 2013), 15-30 state and federal law enforcement agents equipped with a battering ram entered the defendant's house at 9:00 a.m., banging on the door and yelling, "Open the door." *Id.* at 280. After finding the defendant naked and asleep in his bed, an officer pointed a gun at him, ordered the defendant to show his hands, led him by the arm from the house, and left him standing on the front lawn in only his boxer shorts. *Id.* Similarly, in *United States v. Mittel-Carey*, 456 F. Supp. 2d 296 (D. Mass. 2006), eight FBI agents awoke the defendant at 6:25 a.m. with loud banging all around his house, after which they entered, drew weapons, pointed a flashlight in his face, and ordered him to put his hands in the air. *Id.* at 300. .

The defendant in *United States v. Matcovich*, 522 F. App'x. 850 (11th Cir. 2013), saw the other residents of his halfway house handcuffed and corralled in a central location. *Id.* at 852. He was not permitted to enter his bedroom to retrieve his cigarettes, nor was he allowed to use the restroom without leaving the door partially open so agents could observe him. *Id.* In *United States v. Borostowski*, 775 F.3d 851 (7th Cir. 2014), the defendant was sleeping when seven armed agents, one of whom carried a ballistic shield, entered his house at 6:05 a.m. *Id.* at 854. The agents shouted, "FBI, search warrant," ordered the defendant to place his hands on his head, and pulled him by his arm out of the house into the 40-degree weather. *Id.* at 854-55. After being handcuffed, the defendant remained outside wearing sweatpants and a t-shirt for approximately 20-25 minutes. An agent kept his hands on the defendant's handcuffs most of the time. *Id.* at 855.

Compared to the cases cited by the Defendant, her initial encounter with SAs Garrick and Taylor, as well as the others who arrived at the scene shortly thereafter, was exceedingly friendly and non-threatening. No one brandished a weapon, carried a battering ram, yelled "FBI - search

warrant,” woke the Defendant from a slumber, shined a flashlight in her face, ordered her to get on the ground or show her hands, touched her, or raced throughout her house rousing and handcuffing others. The Defendant did encounter multiple agents throughout her time at the house, but she was not confronted by them simultaneously, and the majority of them carried no visible weapons. The status of the law enforcement personnel eventually present on the premises was as follows:

- SA Garrick: no visible weapon
- SA Taylor: no visible weapon
- SSA Harrison: no visible weapon
- SA McKee: no visible weapon
- IA Butts: unarmed
- SA Kirkland: handgun holstered on hip
- TFO Bryngelson: handgun holstered on hip
- SA Freyman: no visible weapon
- SA Igo: no visible weapon
- TFO Francois: no visible weapon
- SA Meekins: unarmed

None of the agents or officers wore police uniforms, raid gear, flak jackets, or FBI-emblazoned jackets or hats. None of them carried a battering ram, a Halligan tool, a ballistic shield, or anything else suggesting a plan to force entry into the house. This factor clearly weighs against a finding of custody.

2. *No Law Enforcement Officer Ever Touched the Defendant*

This factor is simply addressed – no one touched the Defendant until she was taken into custody by Richmond County Deputy Sheriffs approximately one and one-half hours after the conclusion of her interview. The FBI personnel at the scene did not frisk, search, grab, push, restrain, or otherwise touch the Defendant at any time. They did not attempt to physically intimidate her by lording over her, crowding her, impeding her freedom of movement, or otherwise invading her personal space. These facts counsel in favor of a finding that the

Defendant was not in custody for purposes of *Miranda*. Cf. *United States v. Riquene*, 552 F. App'x 940, 942 (11th Cir. 2014) (finding defendant not in custody where he was interviewed in his living room, not handcuffed, and officers wore civilian clothes, did not display weapons, and did not use force).

3. *Agents Spoke to the Defendant in Calm, Conversational Tones and Used Gentle, Non-Accusatory Language*

The audio recording of the agents' interview with the Defendant is telling. The agents' speech never rose in pace or volume above a conversational level, nor did the Defendant's. The agents never yelled, used foul language, or did anything else to suggest that compliance with their requests could or would be compelled. To the contrary, agents spoke gently, permitted the Defendant to attend to her pets and groceries, answered truthfully all of her questions, and deferred to every preference she expressed. They consistently reminded her that her participation in the interview was voluntary.

When speaking about the matter at hand, the agents did not harangue the Defendant, accuse her of espionage, or confront her angrily with incriminating evidence. Rather, they gently urged the Defendant to "think carefully" and suggested she had "an opportunity to maybe tell the truth." USAO-08152. Although the Defendant lied to the agents multiple times during the interview, neither agent called her a liar or threatened her that "lying to a federal agent is a serious crime." Rather, SA Taylor softly told the Defendant he did not want her to go down the wrong road, that she should "stop and think about what you're saying and what you're doing," and that "telling a lie to an FBI agent is not going to be the right thing." USAO-08152. He also reminded her that "we're here voluntarily. You're talking voluntarily. I'm not asking you – forcing you to do anything." *Id.*

In reviewing, step-by-step, the evidence that led them to the Defendant's doorstep, SA Garrick told the Defendant, "[t]he most likely candidate, by far and away, is you," USAO-08158, that the evidence was "very, very, very compelling," and that he would "like to know the reason." USAO-08160. Rather than condemn or chastise the Defendant, both agents sympathized with her, offering that the Defendant "made a mistake" based upon "something that just pushed [her] over the edge." USAO-08161. The Defendant admitted that she had secreted a classified intelligence report from her work building and mailed it to a news agency that she knew had no authority to receive it.²⁰

During the rest of the interview, both before and after the Defendant's admissions, the Defendant laughed and joked with SAs Garrick and Taylor. They chuckled about workouts, previous places they had lived, pets, learning foreign languages, the Defendant's lack of furniture, the weight reflected on the Defendant's driver's license, the Defendant's neighborhood, the monkeys the Defendant saw in Belize, the rudimentary way the Defendant found the intelligence report, and a picture of Anderson Cooper the Defendant kept on her desk at work.

This is not a case in which the Defendant sought to exercise her option of terminating the interview, only to meet resistance from the interviewers. Nor was it an exercise in police deception, in which the Defendant was led to believe she would be questioned about one incident, only to be ambushed with evidence of her guilt regarding a different one. To the

²⁰ Contrary to the Defendant's sworn assertion, it was she, not the agents, who first mentioned the name of the media publication to whom the Defendant mailed the report. *Compare* Dkt. 64 at ¶ 14 *with* USAO-08162.

contrary, the agents' tone, manner, and language were gentle, honest, and entirely non-coercive. This weighs in favor of a finding that the Defendant was not in custody.

4. *The Defendant Chose To Be Questioned in Her Own Home and Was Not Isolated from Others*

SA Garrick asked the Defendant whether she would like to speak with him at the house or at the FBI office about five minutes away. The Defendant chose to speak inside the house.²¹ When asked if there was a private place they could talk during the search, the Defendant suggested an unfurnished spare bedroom. The Defendant said she did not like to go in the room and did not use it much, so SA Garrick began to ask why. The Defendant said the room was "creepy" and "weird," and then laughed. USAO-08122. SA Garrick said "we can talk back there if you're fine going back there," *id.*, to which the Defendant replied, "Yeah, we can go back there." *Id.*

When the Defendant and the agents entered the bedroom, SA Garrick looked inside a small closet and closed the closet door. He left the doorway to the bedroom completely open, so that both he and the defendant could see and hear the others in the house. Just beyond the bedroom doorway was an exterior door leading to the backyard, where the Defendant had placed her dog a few minutes earlier.

The Defendant declined the agents' offers to bring chairs inside the unfurnished room, and similarly declined their invitation to sit on the floor with them. Instead, the Defendant chose to stand against the west wall of the room, leaning back against her hands. SA Garrick stood against the opposite wall and mirrored the Defendant's posture; SA Taylor stood against the

²¹ As can be gleaned from the interview, it was too hot outside that day to comfortably conduct an interview in the Defendant's yard. USAO-08122.

north wall. No one blocked the doorway or the Defendant's path to it. She could have walked unimpeded through the bedroom door, out the exterior door, and into the backyard.

While the fact that an interview occurred in a defendant's home does not conclusively establish that she was not in custody, it usually indicates the absence of the coercion, isolation, and restraint inherent in custodial interrogations. *See Beckwith v. United States*, 425 U.S. 341, 346 n.7 (1976). Indeed, the Eleventh Circuit recognizes that courts are "much less likely to find the circumstances custodial when the interrogation occurs in familiar or at least neutral surroundings, such as the suspect's home." *United States v. Gomes*, 279 F. App'x 861, 868 (11th Cir. 2008) (citing *Brown*, 441 F.3d at 1348).

In the instant case, the Defendant was in her own home during the encounter. In response to the agents' request for a private place to speak, she suggested the particular room in which to meet with agents, chose her position and location in the room, saw and heard other people moving about through the open door, had unrestricted opportunities to use the restroom, and was expressly informed that her participation in the encounter was voluntary. *Cf. Peck*, 17 F. Supp. 3d at 1360 (finding no custody where, "[u]nlike in *Craighead*, the bedroom door . . . was not blocked by an agent, and the sound of other agents walking outside the room, and to a lesser extent, their voices, could be heard. . . so that Defendant was not in total isolation. The evidence shows that Defendant chose to sit on the bed, as opposed to being directed to sit there."). All of these facts—that the Defendant was interviewed in her own home, suggested a room when asked for a private space to speak, had an easy path out of the room, and could see and hear other people outside the room—are highly indicative of a noncustodial interview.

5. *The Defendant Was Not Restrained*

As noted above, the Defendant was never handcuffed, frisked, or even touched by federal law enforcement personnel at her house on June 3, 2017. Agents directed her movements during the search only to the extent necessary to ensure the safety of persons and the integrity of evidence at the scene. Agents did not stop the Defendant from, for example, letting her dog outside, putting her groceries away, or placing a leash on her cat. The Defendant not only agreed to speak with SAs Garrick and Taylor, but when they asked for a private location to speak to her, she also suggested the room, decided whether any furniture would be brought in, and chose where to stand. The door to the room remained open, and neither interviewer blocked the Defendant's path of exit. Even after the Defendant made damning admissions about releasing a classified document, agents permitted the Defendant to use the restroom alone and unsupervised, ensuring the search of the restroom was complete so the Defendant could have "privacy." USAO-08182.

These facts do not paint a picture of a suspect feeling the pressures of a formal arrest or its functional equivalent, and are entirely distinguishable from the case law cited by the Defendant. The defendants in *Craighead* and *Hashime* were questioned in remote storage closets by agents who brandished weapons upon entry.²² 539 F.3d at 1078; 734 F.3d at 281. In

²² The Defendant's claim that *Craighead* is "identical" to this case, Dkt. 63-1 at 17, ignores the totality-of-circumstances analysis that questions of custody require. In *Craighead*, agents wore tactical law enforcement gear, directed the defendant, who was a member of the U.S. military, to a specific room, blocked the defendant's exit from that room, and unholstered their weapons during the execution of the search warrant. 539 F.3d at 1085-86. Moreover, the defendant's superior military officer was present, which the court found to be inherently coercive. *Id.* at 1085. "Most importantly," officers of three law enforcement agencies were between the defendant and the exit, leading the defendant to believe that even his interviewers did not have the authority to permit him to leave. *Id.* at 1088. None of these facts, which led to the finding of custody in *Craighead*, were present here.

Colonna, the defendant sat in the agents' vehicle after being roused at gunpoint and slammed into a door jamb. 511 F.3d at 433. The defendant in *Mittel-Carey* was roused from sleep with a flashlight in his face and told he was "looking at a lot of jail time." 456 F. Supp. 2d at 300-01. The defendant in *Matcovich* (who was found not to be in custody) watched as his fellow residents were rounded up and handcuffed, was not allowed to get his cigarettes from his bedroom, and was monitored while using the restroom. 522 F. App'x. at 852. In *Borostowski*, the defendant was restrained for 25 minutes in the cold, confined in a small room for three hours while an officer blocked the door, and then handcuffed and shackled for a trip to the FBI office. 775 F.2d at 861. The Defendant's situation presented none of these facts.

6. *The Defendant Never Asked To Leave*

This factor, too, weighs against a finding of detention and custody. Simply put, the Defendant never asked to leave or terminate the discussion, and never hesitated in continuing the interview.

7. *The Defendant's Interview Lasted Less Than One Hour*

As noted by the Defendant in her motion to suppress, her interview with agents was "relatively brief," Dkt. 63-1, n.116; *see also* Dkt. 63-1 at 5; Dkt. 64 at ¶ 19, lasting less than one hour. This factor weighs in favor of a finding that the Defendant was not in custody, as the

Even the Defendant's attempt to liken *Craighead* to this case based on the fact that both defendants were interviewed in "back rooms," Dkt. 63-1 at 17, omits a critical factual distinction. In *Craighead*, the defendant was "directed" to "a storage room at the back of his house." 539 F.3d at 1078. In this case, the Defendant, in response to the agents' request for a private location to speak, suggested the room, and confirmed her decision even after SA Garrick noted that the Defendant had indicated that she did not like to be in that room. USAO-08121-22. The similarity—that both rooms were in the rear of a house—is inconsequential. The distinction—that the defendant in *Craighead* was directed to a specific room and that the Defendant in this case suggested the room—is meaningful.

Eleventh Circuit has found interviews of greater duration to be noncustodial. *See, e.g., Muegge*, 225 F.3d at 1269-71 (finding no custody where defendant was directed by supervisor to speak with investigators at a secure site in an interview room with the door closed, where he was interviewed for approximately two and one-half hours, and was not formally arrested until eight months later); *see also United States v. McDowell*, 250 F.3d 1354, 1363 (11th Cir. 2001) (holding that “there is no fixed limit to the length of questioning” and finding four-hour inquiry not to be a custodial interrogation).

8. *The Agents’ Statements Did Not Indicate Defendant Would Be Arrested and Were Not Coercive*

In the time leading up to and during her interview, the agents did not communicate in any way that the Defendant would be arrested. SA Garrick implied the agents’ time on the premises would be quick, stating the agents would “hopefully, explain things, get to, uh, figure this all out and, uh, wrap it up.” USAO-08117; *see also Berkemer v. McCarty*, 468 U.S. 420, 441-42 (1984) (considering, in support of finding no custody, that officer never informed defendant that his detention would not be temporary). SA Taylor asked the Defendant if she planned to stay in her current house or look for another. USAO-08147. This plainly suggests an expectation that the Defendant would be free to do either. The Defendant herself clearly perceived she would not be placed under arrest – she told SA Garrick she was “teaching yoga tomorrow,” but that she could “make do” without her phone if need be. USAO-08133; *see also Gomes*, 279 F. App’x at 869 (noting that defendant’s comments indicated he did not believe he was in custody). The Defendant also mentioned she was seeking a deployment opportunity and trying to increase her security clearance. USAO-08148, 159. It is also important to note that while the agents showed the Defendant a search warrant, they did not show her – nor did they possess – an arrest warrant.

Even if the agents began to change their minds about whether the Defendant would be arrested after she began making incriminating admissions, it is well established that “[a] policeman’s unarticulated plan has no bearing on the question whether a suspect was ‘in custody’ at a particular time[.]” *McCarty*, 468 U.S. at 442. The agents did nothing to broadcast to the Defendant that she would be arrested – to be sure, they did not know that. The agents did not speak of jail, penalties, charges, sentencing guidelines, or the like. Rather, they focused on helping the Defendant offer an explanation for what they called a “mistake.” USAO-08161. As agents gave the Defendant no reason to believe her time with them would be indeterminate or even lengthy, this factor also weighs in favor of a finding that the Defendant was not in custody.

A reasonable innocent person viewing these factors objectively would clearly feel free to terminate the interview and leave.²³ Accordingly, the circumstances in this case do not meet the “initial” threshold of detention, and the Court need not proceed to the “ultimate inquiry” of custody. Moreover, even if the Court were to find that the Defendant at any point was not free to terminate the interview and leave, the totality of circumstances in this case does not remotely resemble the level of restraint on freedom associated with a formal arrest. The Defendant was therefore not “in custody” for *Miranda* purposes.

²³ To be sure, as to the ninth factor referenced above, the Defendant was arrested after the agents finished the interview and received further instructions by telephone. Although the fact that a defendant was arrested at the end of an interview is a factor that some courts consider, *see, e.g., Matcovich*, 522 F. App’x at 851, as explained in the text, whether a defendant was in custody remains an objective test considering the totality of the circumstances from the perspective of a reasonable, innocent person being interviewed under the same circumstances.

B. The Defendant's Arguments Do Not Consider the Totality of the Circumstances

1. *There Is No Requirement for Agents To Expressly Inform a Defendant That She Is Free To Leave When There Is No Indication That Her Freedom Is Curtailed*

The Defendant argues repeatedly that her statements to the FBI should be suppressed because the FBI agents never expressly stated that she could leave her residence. That fact is insufficient on its own to show that the Defendant was detained, let alone convert the Defendant's interview into a custodial interrogation. *See Robinson*, 2017 WL 3262417, at *3-4 & n.3. In any event, this point does not establish custody when considered in the totality of circumstances. Of particular note are the agents' statements on at least three occasions that participating in the interview was voluntary. *See* USAO-08108 ("completely voluntary to talk to me"); USAO-08111 ("we're – we're completely voluntary, completely up to you"); USAO-08152 ("[A]gain, we're here voluntarily. You're talking voluntarily. I'm not asking you— forcing you to do anything.").

Given the absence of any indication or statement by the agents suggesting that the Defendant's freedom was limited, a reasonable innocent person in the Defendant's situation would have understood the agents' repeated reassurances that the interview was voluntary to clearly signify that she could have terminated the encounter at any point. *See United States v. Leese*, 176 F.3d 740, 742 (3d Cir. 1999) ("Where . . . the individual has not been openly arrested when the statements are made, 'something must be said or done by the authorities, either in their manner of approach or in the tone or extent of their questioning, which indicates they would not have heeded a request to depart or allow the suspect to do so.'" (citations omitted)); *see also United States v. Barry*, 479 F. App'x 297, 299 (11th Cir. 2012) (finding defendant not in custody when reasonable innocent person would have felt free to leave or terminate the interview);

Miller, 2015 WL 8578649, at *1 (finding no custody when “a reasonable, innocent person would have felt he was free to terminate the interview or to leave”). Notwithstanding the Defendant’s selective recitation of the facts underlying the cases cited in her motion, none of those cases resulted in the suppression of a defendant’s statement based on this one fact. Taken in totality with all of the other facts surrounding the FBI’s interview of the Defendant—particularly the agents’ repeated statements that the Defendant was not required to participate in the interview—this one data point is insignificant.

2. *The Existence or Execution of a Search Warrant Does Not Convert a Consensual Interview into a Custodial Interrogation*

In the absence of any relevant or controlling case law, the Defendant also attempts to construct an argument that the existence of a warrant to search her person somehow transformed her voluntary interview into a custodial interrogation.²⁴ This claim is baseless and belied by the facts. No one at the scene ever told the Defendant that she could not leave or had to wait to be searched, or that any search of her person would occur beyond the seizure of her cellular telephone. The idea that the warrant to search the Defendant’s person prevented the Defendant from leaving certainly did not occur to the Defendant herself; she asked questions such as whether she could have her telephone back, and whether she could attend to groceries and pets (both of which which were permitted), but never asked whether she would be further searched, how such a search would occur, or whether she was required to remain and wait for the search of her person. Moreover, the Defendant clearly did not believe she was in any type of custody

²⁴ The Defendant repeatedly presumes that female agents were required to perform any search of her person. Dkt. 63-1 at 2, 11. This assumption is incorrect and is not founded upon any information provided to the Defendant prior to or during her interview. Had the Defendant simply inquired about the search of her person (as she did about whether the agents would return her cellular telephone), she would have learned it was complete.

when she asked about using her telephone while teaching yoga the next day.²⁵ Even after giving her entire statement, which included confessing to stealing a classified document and mailing it to a news outlet, the Defendant still did not feel detained, as evidenced by her – finally – asking whether she was going to be arrested. Particularly in light of all of the other circumstances surrounding the Defendant’s interview, the single fact that the FBI had a warrant to search the Defendant, which the agents had already executed by seizing her cellular phone, does not support a claim that the Defendant was detained, let alone in custody.

Similarly, the execution of a search warrant at a defendant’s residence does not, on its own, constitute “custody” for *Miranda* purposes, even when, unlike this case, the defendant is detained during the search. *United States v. Asher*, 2010 WL 4192883, at *8 (N.D. Ga. Feb. 25, 2010), *report and recommendation adopted*, 2010 WL 4237579 (Oct. 21, 2010) (“To hold that detention of a suspect while executing a lawful warrant at his residence is the legal equivalent of custody for *Miranda* purposes would run contrary to the Eleventh Circuit’s direction to consider the totality of the circumstances in analyzing the issue.” (citing *Brown*, 441 F.3d at 1348-49)). “[E]scorting a subject around [her] own home while it is searched does not create a custodial situation.” *Asher*, 2010 WL 4192883, at *14.

Thus, even if a reasonable, innocent person in the Defendant’s position could have believed she was being detained for the duration of the search, then the circumstances still would not establish custody for purposes of *Miranda*. As described above, the agents casually approached the Defendant outside of her house in the afternoon. They never touched the Defendant or brandished any weapons. They never ordered her to do anything. They allowed

²⁵ As noted above, the Court’s inquiry is objective and does not rely on the Defendant’s perception or state of mind. The Defendant’s conduct, however, demonstrates that she was not detained as a result of the search warrant.

her to move about her home as she wished within the bounds of safety. The Defendant was never subjected to physical or implied restraint of any kind, and she never asked to leave.²⁶ The agents did not use harsh or commanding language. They assured the Defendant multiple times that her participation in the interview was entirely voluntary. The Defendant chose to speak to the agents. When the agents requested a private place to speak to her, the Defendant suggested the location. She joked with the agents and engaged in conversation about pets and exercise. No one blocked the Defendant's path to leave her house or otherwise restrained her. She never asked to end the conversation, leave the room or the premises, or speak to an attorney. There is simply no basis for the Court to conclude that the Defendant was subjected to the level of coercion and restraint associated with a formal arrest.

In sum, a reasonable innocent person being interviewed under the facts set forth above would feel free to terminate the encounter, and in any event, the totality of the circumstances of the interview did not approach the level of arrest. The Defendant was therefore not in custody during the execution of the search warrant, and was not entitled to *Miranda* warnings.

VII. CONCLUSION

The Defendant's interview with agents on June 3, 2017, viewed in the totality of its circumstances, was noncustodial and did not require *Miranda* warnings. Agents, dressed in casual civilian clothes and carrying no visible weapons, approached the Defendant outside her home. She agreed to speak with the agents and, in response to their request for a private

²⁶ The Defendant avers that from the time she learned law enforcement had a search warrant for her person, she understood she was not free to leave. Dkt. 64 at ¶¶ 3, 4. "The test," however, "is objective: the actual, subjective beliefs of the defendant. . . on whether the defendant was free to leave are irrelevant." *Brown*, 441 F.3d at 1347 (citations and quotation marks omitted); *see also Peck*, 17 F. Supp. 3d at 1360 (defendant's subjective feelings of intimidation irrelevant to custody determination).

location, she suggested the room in which the interview occurred. The interview was conducted in a room with an open door, and no one impeded or in any way attempted to prevent the Defendant's departure. Agents reminded the Defendant numerous times that her participation was voluntary, and the Defendant expressed a desire to "definitely" speak with them.

The agents allowed the Defendant to move about her house and to attend to personal matters. Even after she made incriminating admissions, agents told the Defendant that no one had decided to place her under arrest. The Defendant never asked to end her interview, leave the premises, or speak to an attorney. Had she asked about the search of her person, she would have learned it was complete when she relinquished her cellular phone. Even if the Defendant felt compelled to remain on the premises, the agents did nothing during her voluntary interview to elevate their encounter to a formal arrest or its functional equivalent. The Defendant's own statements regarding her plans for the next day and the fact that she never asked whether she was under arrest until the end of the interview reinforce the conclusion that, based on the totality of the circumstances, the Defendant was not detained when she spoke with the agents. Even if any detention occurred, it did not approach the level of arrest, and *Miranda* warnings were therefore unnecessary.

For those reasons, the Court should find the Defendant was not in custody during her interview with SAs Garrick and Taylor on June 3, 2017, and the Defendant's Motion to Suppress, Dkt. 63, should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that I have on this day served all the parties in this case in accordance with the notice of electronic filing (“NEF”) which was generated as a result of electronic filing in this Court.

This 18th day of December, 2017.

Respectfully submitted,

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United States v. Reality Leigh Winner

CR 117-34

Government's Response to Defendant's
Motion to Suppress

Attachment A –Recorded
Interview of Defendant,
June 3, 2017 (redacted)

[To be hand-delivered to
the Court on CD]

****Contains PII****

United States v. Reality Leigh Winner

CR 117-34

Government's Response to Defendant's
Motion to Suppress

Attachment B – Transcript
of Interview of Defendant,
June 3, 2017 (redacted)

**UNITED STATES DEPARTMENT OF
JUSTICE FEDERAL BUREAU OF
INVESTIGATION**



Source File Information
170603_01.WAV

VERBATIM TRANSCRIPTION

Participants:

SAG
SAT
RW
UM

Special Agent Justin C. Garrick
Special Agent R. Wallace Taylor
Reality Lee Winner
Unknown Male

Abbreviations:

[PH]	Phonetic
[OV]	Overlapping voices
[SC]	Simultaneous conversation
[UI]	Unintelligible
[sic]	<i>As stated</i>
[IA]	Inaudible
[UM]	Unknown male

AG: This is my partner W-partner, Wally Taylor.

SAT: Hey, how are you?

RW: [OV] Hey.

SAT: How are you?

RW: Good. How you doing?

SAG: Good. How's your day today?

[noises]

RW: Uh, it's pretty good. Just got some groceries.

SAG: All right.

SAT: Let's show you who we are.

SAG: Okay, well, the reason we're here today is that we have a search warrant for your house.

RW: Okay.

[noises]

SAG: All right. Uh, do you know what this might be about?

RW: I have no idea.

SAG: Okay. This is about, uh, possible mishandling of classified information.

RW: Oh my goodness. Okay.

SAG: [OV] Mm-hmm. So, what we've got is, uh-again, got a warrant. Uhm, and I'm happy to show it to you. What I'd like to do is sit down, talk you with a-talk with you about it.

RW: Mm-hmm.

SAG: Kind of go over what-what's going on. Uh, talk to you, kind of get your-your side of it. And of course, you-completely voluntary to talk to me. Uhm, we can-uh-we can talk here. Uh, our office is about five minutes away. Uh, if you

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want to-if you'd rather talk there, then we can do either one. It makes no difference to me.

RW: Okay.

SAT: Do you have any pets?

RW: I do. I have two pets.

SAT: [OV] Because you've been gone awhile, so d-do we need to maybe let them out and use the bathroom and stuff like that?

RW: [OV] I-I do. Would you mind if I at least get some perishables into the fridge?

SAT: [OV] And we can do that too, but what we're going to have to-Is it, do you live by yourself?

RW: Yes.

SAT: Okay. What we're going to have to do is we're going to have to go into the house first and make sure it's-it's safe. We have a-

RW: [OV] Absolutely.

SAT: -search warrant and so w-we're a-we're going to.

RW: Absolutely.

SAT: Okay. And what we'll do is we'll keep you out here until we do that-

RW: [OV] Uh-huh.

SAT: -and once we secure it, we'll, uh-[noise] then we can kind of go from there, okay?

RW: Of course.

SAT: Is your dog friendly?

RW: Okay, so she does not like men.

SAT: Okay.

RW: So.

SAT: [OV] So that's a problem. [laughs]

RW: Uhm.

SAG: [laughs]

RW: However, and she might, uhm, come towards you.

SAT: Okay.

RW: She's never bitten anybody. She's not aggressive.

SAT: Okay.

RW: She's just got, you know, a really good growl going. She'll probably just hide under my desk.

SAG: Okay.

SAT: [OV] Okay. Do you have a-a m-a leash or something where we could-

RW: [OV] I have a leash.

SAT: [OV] Okay.

RW: [OV] I can get her leashed up.

SAT: [OV] So what we might want to do is maybe let you go in there with her. And you're not to touch anything else, you're not to do anything else but get the dog and bring it out here.

RW: [OV] Yes, I can do that.

SAT: [OV] Are we cool? We-w-

RW: [OV] I can move her straight to the backyard.

SAT: [OV] Because other-otherwise, if-if we're going to have a problem, we're not going to do that.

RW: Of course.

SAT: [OV] So.

RW: [OV] I understand.

SAT: Okay.

SAG: Okay.

SAT: Uhm, house key?

RW: House key.

[noise]

SAT: We also have a warrant to search the car, too.

RW: Yes.

SAT: Okay. Do you have a cell phone? [noise] [pause] Okay. [noises] And we'll take that and then we'll-uh-we'll kind of go from there, okay?

RW: Of course.

SAT: Uhm, but like he said, we're-we're completely voluntary, completely up to you on. But, you know, I think maybe it-it'd be worth your time to listen at least for a little bit.

RW: Definitely. Uhm-

SAT: [OV] Okay? And we'll kind of figure out what's going on.

RW: Definitely here to-

SAT: [OV] Okay.

RW: -uhm, comply.

SAT: [OV] Uhm, so why don't we.

RW: Her leash is, uh, two feet inside the door where I left it this morning.

SAT: [OV] Okay.

RW: I can move her straight to the backyard.

SAT: [OV] Are there any weapons in the car? In the house?

RW: In the house, yes.

SAT: What do you have?

RW: I have an AR-15.

SAT: Is it pink?

RW: It's pink.

SAT: Okay.

RW: How'd you know? [laughs]

SAT: [laughs] [background
noises]

RW: Uhm, I have a Glock Nine under the bed.

SAT: [OV] Okay.

RW: And a-uhm-a 15 gauge.

SAT: You sound like my house. Okay.

SAG: [OV] Okay.

SAT: We're good then.

SAG: All right. Just don't make any-any movements for that and then we're-

SAT: [OV] And-and-

RW: Yeah.

SAT: Yeah, I mean, we're all cool.

SAG: [OV] Yeah, I mean, kind of
obvious.

RW: Yeah.

SAG: [OV] Okay.

SAT: [OV] You can p-There's a-that little fenced-in area is where you can put her?

RW: Yes, yes, and you won't even-

SAT: [OV] Okay.

SAG: [OV] Okay.

RW: -you-you won't take your eyes off of me.

SAT: [OV] And we'll get a water. We can get her water and all that kind of stuff, but let's-let's-

SAG: Yeah, she's going to been in there-

SAT: [OV] -let's go ahead and secure her, I think, and then that way-

SAG: [OV] Mm-hmm.

SAT: -and then maybe we can put some of your stuff in the fridge.

RW: Of course.

SAT: And then we'll kind of-

RW: Yes.

SAT: [OV] -we'll go from there, okay?

SAG: Okay.

SAT: So let's do that.

SAG: Good deal.

[noises]

SAT: And this other guy behind-uh-

SAG: [OV] Go on.

SAT: -is with us as well. And we're probably going to have a few more people

showing up here [noise] directly.

RW: [OV] Of course.

[noises]

SAG: [coughs]

RW: Doo doo doo.

[noises]

SAT: So we're going to get the dog and, uh, bring it out there.

SAG: Okay. I got her.

RW: All right, girl, let me get your leash. Leash, collar. I know, there's people out outside[UI]. Uh, leash, collar.

SAG: [laughs]

SAT: Is that the only pet?

RW: There is a cat. She will go straight under the bed.

SAT: [OV] Okay.

[noises]

RW: [OV] Uhm, again-

SAT: [OV] Uh-

RW: -doesn't like men. Starting to see a trend here.

UM: [SC] [in background] All right, coming out here.

SAT: [OV] Yeah.

RW: Come on girl. [noises]

SAG: Hey sweetie. Hey sweetie.

RW: Backyard.

UM: [SC] [in background] Hey, you all come on out. Found her, like three minutes ago.

RW: Yeah, she knows where we're going. Come here.

SAG: [laughs]

RW: Come here, honey girl.

SAG: What's her name?

RW: Nicky [PH].

SAG: Hey, Nicky.

RW: Nicky girl.

SAT: [OV] Hey there. She doesn't know what's going on though.

[noises]

RW: There you go. All right [IA].

[background conversation]

SAT: And you don't have any weapons or anything on you, do you?

RW: No.

SAT: There's none in the car?

RW: Uhm, in the car, no.

SAT: Okay. [noises] All right, so, let's, uh, hang on just a second.

RW: Can I close the door for my cat?

SAT: Yep.

[noises]

RW: All right, good. That's all I care about right now.

[noises]

SAT: Okay. Uhm-

SAG: [OV] Uhm-

SAT: -so the only thing in there now that's alive is the cat?

RW: Yes.

SAT: There's not a person?

RW: No person.

SAT: No other dogs? Okay, li-. Uhm, they on their way?

UM: They're pulling up.

SAT: Okay.

UM: All right.

SAT: So why don't we. Probably want to get that stuff in.

UM: Yeah.

SAT: Can we put most of that in the fridge?

RW: Yeah, it's all going to-

SAT: [OV] We're not going to have to unpack all the bags and all that kind of stuff.

UM: Okay.

SAT: Okay. [noises] Why don't we, uh. You want to stay out here with-with her for a minute?

UM: [OV] Yeah.

SAT: And Joe and I will walk through.

UM: Okay. [noises] Why don't they just-

SAT: [OV] Again, just to explain to you, we have a search warrant. It's-it's-

RW: [OV] I understand.

SAT: -it's en route. So, uh.

[noises]

SAG: It's all right. Uh, just making sure-just checking to make sure there's nobody else in there or nothing-surprise-surprise us or anything like that.

RW: Yup.

SAG: So.

RW: I want to make this as easy for you guys as possible.

SAG: Okay. Likewise. So, hopefully, explain things, [noises] get to, uh, figure this all out and, uh, wrap it up. [pause] [noises] How long have you had your dog?

RW: Uh, she's actually a foster. I'm rehabilitating her so hopefully she can get adopted later on. Uhm, she's a rescue. I think I got her in March.

[noises]

SAG: Okay. How-uh-how old is she?

RW: Oh, we don't really know. She's one of those.

SAG: [OV] Uh, yeah, my-uh-[noises] one of my dogs was a rescue and when-when I got him. He wouldn't. Uh, I was the only guy who could touch him.

[background IA conversation]

RW: Mm-hmm.

SAG: [OV] And this was-well, probably three years. Anybody else came in the house, especially male, he'd pee-

RW: [OV] Hmm.

SAG: -all over the place. But I could touch him and it was fine, and it's fi-I mean, he's seven years old now, he just comes up to everybody. Licks his hand, he's great. And so whoever had him before was a real-

RW: Mm-hmm.

SAG: -uh, was a real piece of work.

RW: Oh yeah. She was kept in a kennel and neglected her whole life and...

[IA background conversation]

UM: Hmm.

UM: [in background] Yeah, no, if you have to [IA].

SAT: All right. Why don't we, uh-let's get those groceries and let's throw them in the fridge real quick.

RW: Mm-hmm.

SAT: And then we'll, uh, bring you back out here, okay?

RW: [OV] Yep.

UM: [OV] House is cleared.

[noises]

RW: Absolutely.

[noises]

UM: These gloves come in [UI].

UM: Yeah. Yeah, [UI] the recorder [UI]. UM:

[SC] [UI] going to put up pictures [UI].

UM: Huh?

UM: The recorder [UI].

UM: [SC] Yeah, there's some in the back of that, uh-

UM: [OV] [UI]

UM: [OV] -suburban. [UI]

UM: Is that going?

UM: [IA]

[noises]

UM: No. Then, no, don't worry about it.

[noises]

UM: I'm just looking [UI] real quick.

UM: [UI]

UM: If you could step over [IA].

RW: Yes.

UM: And just stop right there [UI].

[noises]

[IA background conversation]

UM: Yeah, probably [UI].

UM: [IA]

UM: We're going to [UI] I walked through [UI].

[IA conversation] [noises]

UM: All right. [IA]

[noises]

UM: Sounds like [UI].

SAT: Do you want to just throw that in the fridge? And we'll just-

UM: [OV] [IA]

SAT: -throw all these bags in the fridge.

[noises]

RW: Yep.

UM: Is that-

UM: Got her?

UM: You got one here.

UM: [OV] Yep.

SAG: Uh, no, that's it for the perishable. Should be.

UM: [OV] Okay.

[IA background conversation] [noises]

UM: [UI] the neighbors [UI].

UM: Mm-hmm.

[noises]

SAG: See, it looks like we might be blocked in. Can we borrow your truck keys?

UM: What you need?

SAG: We're going to be going back to the office, so.

[background voices]

UM: Yeah.

SAG: Unless-unless-

UM: [OV] [UI]

SAG: -we can just move it. [noises] Okay. [noises] All righty.

SAT: There's a cat in the house-

SAT: In the bed, where-it was on the bed.

UM: [OV] -on the bed.

UM: Okay.

SAT: Or it was on the bed.

UM: [OV] It's-

SAT: [OV] It'll maybe go under the bed at some point.

SAG: And the dog is in the backyard in the fence. Does-she need water?

[barking]

RW: She'll be fine. She's been inside all day with her water.

SAG: Okay. All righty. All right. So, uhm, would you like to talk here or talk-uh-talk at the office?

RW: Uhm, let's go ahead and talk here.

SAG: You want to talk here?

RW: Sure.

SAG: Okay.

[background conversation]

SAG: Uhm- let's. I'm trying to think if we have any place-uh-uh-in the house that-uhm-that we can kind of sit down that's, uh, private. Is there-do you have anything there in the house that we can kind of sit that's away? How many rooms does your house-

[noises]

RW: [OV] Away? Uhm, so there's one bedroom. I do have a spare bedroom that I don't use that's empty. I don't like to go in there. Uhm, I guess I-I don't have anything that's completely closed off though-

[noise]

SAG: [OV] Okay.

RW: -except for that back room.

SAG: Okay, that back room?

RW: [OV] Yeah, there's-

SAG: [OV] And it's-it's completely empty?

RW: Yeah. You'll go in there. There is one dog kennel cage. Other than that, I don't use the room.

SAG: Okay. All right. Uh, you said you don't like to go in there. What -

RW: Y-It. Oh gosh, it's just creepy. It's just weird. It's like an addition to the house behind the kitchen and it's always dirty and....

SAG: Okay.

RW: [laughs]

SAG: Uh, we can talk back there if you're fine going back there. It's, uh-

RW: [OV] Yeah, we can go back there.

SAG: Okay. All right. We'll take - uh - there's a - there's a back room that's - uh uh-we can-

SAT: [OV] Kind of like the laundry-

SAG: -that she'd like to talk in.

SAT: -supposed to be the laundry room?

RW: [sighs] I guess so.

[noises]

SAT: Kind of off the kitchen?

RW: Yeah.

SAT: Okay. Okay, yeah, that'll work.

SAG: Okay.

SAT: It's too hot out here for-

SAG: [OV] Yeah, and we're not going to s-we're not going to make you sit out here-

RW: [OV] Yeah.

SAG: -in the heat.

RW: I can make a pit stop and bring the A/C down a bit, too, if you guys need that.

SAG: [OV] Okay.

UM: All right, then.

SAG: [OV] Well, what's going to happen is-uh-they'll-uh-they've got to do their thing for a minute and then-

RW: [OV] Of course. Uh-

UM: -we can go in.

RW: -do they need me to make sure my car's unlocked?

UM: Yes, yes.

SAG: [OV] We'll, uh-

RW: [OV] Uh, yeah.

SAG: -we'll grab the keys and -

RW: Okay.

SAG: So.

UM: Get the password for it.

SAT: What's the, uh. How do we open this?

RW: Okay. So you, uh-

SAT: [OV] Just. Hang on.

RW: [OV] -press that. There you go.

SAT: Okay.

UM: What kind is it? An iPhone?

SAG: How long have you lived in Augusta?

RW: Uhm, I was here October 2015 to April 2016, uhm, TDY. And then I moved back here just past December.

SAG: Okay, so you're kind of familiar with the-

RW: Familiar, yeah.

SAG: Yeah. What do you think of it?

RW: I mean, I willingly moved back here as a civilian, so-

SAG: [laughs]

RW: -it must be all right.

SAG: Willingly. You say that-you say that begrudgingly.

RW: Yeah, it was pretty much. Uh, NSA Georgia was the only job I could get.

SAG: Okay.

RW: Yeah. I was having problems getting, uh, the contract I wanted.

SAG: What contract were you going for?

RW: Uhm, I originally- my big plan is to deploy as a Pashto linguist over-

SAG: [OV] Okay.

RW: -and be at Baghram for awhile.

SAG: Okay.

[background conversation]

[vehicle noises]

RW: Uhm, but then they hired me out here for Farsi, so.

SAG: Okay, so you're Farsi and Pashto?

RW: Farsi, Dari, Pashto.

SAG: Wow. That's impressive.

RW: [laughs]

SAG: I barely-I'm barely able to speak English.

RW: Oh. [laughs]

SAG: So.

RW: English is hard.

SAG: Hmm.

SAG: Uh-but. Yeah, I noticed that with-uh-[coughs] especially here in Augusta, it's-it's great with-for families, but single, it's kind of tough. Like, I can't imagine coming back.

SAT: How is this-You've got a password on this or what do you –

RW: Uhm, no, there's no password.

SAT: [OV] How do we-how do we do it? Show me how to do it, or tell me how to do it.

RW: Okay.

SAT: Swipe that?

RW: Yeah.

SAT: No security?

RW: No security.

SAT: Okay.

RW: [OV] Yeah, so.

SAT: [OV] But you don't have a password or anything that it-

RW: [OV] No password, nothing.

SAT: Okay.

RW: Just, uh, anytime it locks, uhm, you just press until you see, like, a little circle, and then you slide just a little bit.

UM: [OV] Okay. So it's-

[noises]

UM: Did you already show her the warrant?

SAG: Uh, no, I haven't. I was going to-we're going to sit down and show it to her.

UM: All right. So we're going to go ahead and go in.

UM: Okay.

UM: [OV] Yep.

SAG: [pause] As soon as they finish the pictures we can go-get out of the gnats.

RW: Oh yeah, they're pretty bad.

[background conversation]

[vehicle noises]

SAG: How long were you in the Air Force?

RW: Six years.

SAG: Okay.

RW: Yeah.

SAG: Hmm. What made you get out?

RW: Uh, I just-I wanted to deploy. I mean, I learned Pashto for a reason-

SAG: Mm-hmm.

RW: -but-uhm-that's just-those opportunities aren't there in the Air Force right now.

SAG: Hmm. You'd figure that with that language, you could-

RW: Right? [laughs]

SAG: -just raise your hand they'd go, "yeah, go."

RW: Uh, no, where I was in, uh, Maryland, squadron of, like, 450 people, we got one billet per year for Afghanistan, and it was all-always airborne. Not even language.

SAG: And the-so I imagine people were just crawling for it.

RW: Oh yeah, and I don't have an airborne physical, so. Yeah.

SAG: Hmm. So, Augusta, Georgia it was, huh?

RW: Yeah. [laughs]

[barking]

UM: Is your dog okay? Does it need anything?

RW: She's fine.

UM: She?

RW: Yeah. She's-

SAG: [OV] If you can tell, we're all dog people.

RW: Oh. [laughs] I know. She's going to have her little anxiety attack.

[pause]

SAG: Where all were you with the Air Force?

RW: Uhm, just right after training, went up to Fort Meade and spent four years there.

SAG: That's a long time in Maryland.

RW: It is. And there was no opportunity of leaving.

UM: I can beat you. You know where my first Air Force assignment was?

RW: What?

UM: Minot, North Dakota.

RW: Oh, nice.

UM: Kind of hot like this up there.

UM: [laughs]

UM: It's –

SAT: For what, a day?

UM: [laughs]

UM: Yeah, like for an hour, right?

[laughter]

UM: Five o'clock on July 17.

SAT: [laughs] Right.

SAG: Yeah, I was seven years in DC, and that was about six and a half too long.

RW: Oh, yeah. DC.

[pause]

SAG: They keep asking if I want to go up there. I'm like, "uh, no. No. No, thank you."
I'm done with that.

[barking]

UM: She [IA].

[barking]

RW: My poor dog. I just got her acclimated to the backyard again yesterday.

[laughter]

RW: She was boarded all weekend, so. I was out of town.

SAG: Oh. Yeah, might-might have to work on acclimation.

RW: [laughs]

SAG: She's not-probably not going to like the backyard after being forced out
there for a few hours.

RW: [OV] Oh, I know. She gets so anxious. And then we're, like, off schedule
because she won't go, and so I'm just like, whatever, we're going inside. And
then three seconds later she goes on the carpet.

UM: Mm-hmm.

SAG: Is she destructive at all when she-when you leave her alone?

RW: Yes. [laughs] She's just a nervous chewer.

SAG: Yeah, my, uh-one of mine, she's fine, you can leave her out all day long, all she does is sleep and snore. Shakes the whole house.

RW: [laughs] Yeah.

SAG: My-uh-my rescue, he is. We-we left him out for probably the first two weeks. He destroyed the couch. [noises] Clean through, chewed it. And, uh, three Apple power cords. The computer power cords.

RW: [groans]

SAG: Ninety bucks a pop.

RW: Yep.

SAG: Yeah. I was-I was thrilled.

RW: [laughs]

SAG: But. Yeah, turns out he's much, much happier when he's-uh-if we got to go away for a little bit, he's in the crate with – as long as the other dog's in there with him, then he's fine.

[pause]

SAG: Where do you do CrossFit at?

RW: Uhm, right now I'm at SEC. Uhm, they used to be over on Enterprise Court -

SAG: Mm-hmm.

RW: -off of Bobby Jones but we moved. We're over on Wheeler. Uhm, but my friend is re-opening the Under Box. Uhm, they merged with SEC, things didn't work out, and so now she's going to do her own thing.

SAG: Going to go off?

RW: Yeah. So I'm just waiting for her gym to open to jump ship. [laughs]

SAG: I did it for like six months, and I hurt myself.

RW: Oh.

SAG: Just every single day was just pain.

RW: Yeah.

SAG: So, I don't know. Guess I'm just too old and broken.

RW: I mean, I always say I don't do CrossFit. Uhm, I do competitive power lifting.

SAG: Okay.

RW: And then I do CrossFit when it's convenient. [laughs] But I do love working out at a CrossFit gym. You know, the space-you can't beat that.

SAG: No, uh-uh.

RW: In between classes, I just get free run of the gym.

SAG: What's your, uh. So power lifting, what's your-your preference on? What's your favorite stuff?

RW: I'm just all upper body, so bench. It's kind of sad. I tested all my lifts this week because I have a competition on June 24th.

SAG: Mm-hmm.

RW: And bench is 180. Max back squat. I have a back injury, so my max back squat is only 195. But I don't. [laughs]

SAG: Still-still not shabby.

RW: [laughs] They should not be that close. [laughs]

UM: Uh, how'd you hurt your back?

RW: CrossFit.

SAG: Oh.

RW: Uh, just power cleans. My, uh, pelvis wasn't rotating so I separated that side joint.

[noise]

SAG: That sounds painful.

RW: Yeah.

SAG: I did, uhm- I was doing box jumps, and this hand just-I was doing it by myself-hit the box and, I mean, I-I thought I just fractured every bone in the body-in the-in the hand. And I went to-I had to go to the doctor to get the-get the X-ray. And they said, "so how'd you do this?" CrossFit.

RW: [noise]

SAG: Four times they asked me. Said, no, I didn't get in a fight.

RW: [OV] Tchhh.

SAG: It's CrossFit.

RW: Yeah, I thought I could see the bone on my shin from that one. That's over two years old.

SAG: Wow. What was that?

RW: [OV] Box jump. Just missed the box. [laughs]

SAG: Yeah, that's a moment that you really hope did-ah, did anybody see that?
[noise] I really hope nobody saw that.

RW: I got so mad. They're just like, you just threw a handful of chalk on it and then you kept going. [laughs]

SAG: [snorts] That's commitment. [noise] Oh.

RW: So I do have to ask, uhm, just however-

SAG: [OV] Mm-hmm.

RW: -this goes, I'm not making any assumptions, but is this going to be like a I -

brought-my-phone-into-the-building-type situation where I don't see that phone for three weeks or....

SAG: So we'll go over the warrant itself.

RW: Okay.

SAG: Uhm, so, we do have a warrant for the phone, so.

RW: I didn't want to make any assumptions or anything like that, but I am teaching yoga tomorrow and phone has music on it.

SAG: Okay.

RW: [laughs] Uhm-uhm-I could make do. Like, there-there are bigger problems in the world, I guess.

SAG: Yeah. And we'll-we'll-we'll talk about that once we-once we sit down.

RW: [OV] All right.

[pause]

SAG: You have just a few chairs-like kitchen table chairs we can pull into that-uh-that backroom?

RW: [laughs] No, I, uh.

SAG: [OV] Or we going to be sitting on the floor?

RW: [laughs] Yeah. If you want to sit, yeah. [laughs] I'm not big on furniture.

SAG: Okay. Uhm, I wonder if we have a couple of chairs in the –

UM: Might be a couple in Chuck's truck.

SAG: Might be.

RW: Sorry about that.

SAG: No.

SAT: How long have you been in this house?

RW: Uh, moved in [sighs] December 15th.

[pause]

SAG: Okay. We're good.

UM: [SC] Hey, do you have any chairs in your truck? Uh, fold-up chairs.

RW: Would it be too much to ask if I could try to get the cat on a leash and then tied-

UM: [SC] Uhm.

RW: -to the bed?

UM: [SC] Uhm, I don't remember seeing any. I think they're in the truck.

RW: Uh, just so don't-I don't want to be, like, telling someone in the FBI to keep my front door closed, if you all are doing a search.

UM: [UI]

SAG: [OV] Uhm. What's that?

SAT: I don't see a problem.

SAG: I don't see a-I don't see an issue. Uh-uh-where is the cat right now?

RW: On the bed.

UM: [OV] In the bedroom, in the bed.

SAG: Okay.

SAT: [OV] Still in the bed?

UM: I think so.

UM: Yeah.

SAG: Okay. [noises] Yeah, we can do that. Where-uhm-just safety's sake, where are the. There's the weapon and the, the-

[barking]

RW: The weapon, it's right by the little table with the lamp, right under the bed.

[background conversation]

SAG: Okay. All right. We can go ahead and go in.

RW: Mind if I grab a leash?

SAG: Yeah, that's fine.

[pause]

UM: Over here?

RW: Yes, right under the bed.

UM: The cat's under there.

UM: [IA]

UM: He's under the bed. Or she's under the bed.

SAT: The AR's in this case in here?

RW: Yes.

SAT: Where's the other gun?

RW: It's behind it, more against the wall in a black case.

SAT: Okay.

UM: You mind if [UI]-

UM: [OV] Take it.

UM: -[UI] if you get the cat?

UM: Yep.

UM: Okay. Is there anything else in there?

UM: The what?

UM: Didn't see nothing there.

UM: Do you want to get your cat?

RW: Yeah. Uh, thank you. [noises] [pause]
All right, she's good.

SAT: Okay. Good enough.

SAG: All right.

SAT: Want to go back here?

SAG: Yeah, you can go ahead and go back in there.

[conversation in background]

RW: Oh, this room is dirty. I'm so sorry.

SAT: That's okay.

SAG: No, that's fine.

SAT: Not a problem.

SAG: All righty. So, uhm, again, uh, my name's Justin. You probably don't re-
Remember any idea of who I am. [laughs] So, Justin Garrick with the
FBI. Uh, this is Wally. He's my partner. Uhm, so what I want to do is
kind of explain that we, you know, do have a search warrant-you're
welcome to see the warrant, you're welcome to read the warrant-and
then explain a little bit about it. Now, if you're willing to talk to me,
like to go through just kind of how this started and, you know, get your-
your side of it and figure out what's going on here. Okay. Does that
sound-sound good to you?

RW: Okay.

SAG: Okay.

RW: Yes.

SAG: Uhm, so I'm going to take-uh-right here-I'm going to take-uh-notes-
uh-just random basis. Got to take notes.

[background conversation]

SAG: So, uhm, what is your date of birth?

RW: [REDACTED]

SAG: Okay. And your Social?

RW: [REDACTED]

SAG: Uh, do you need water or anything? Are you-

RW: [OV] I, uhm-

SAG: -thirsty? You're what? If you need water, shout it out.

RW: Okay. I'll let you know.

SAG: [OV] Are you thirsty?

RW: Not right now.

SAG: Okay.

RW: Thanks.

SAG: All right. Uh, if you need to use the restroom, any of that, let me know. It's not a big deal. Okay. And, uh, you've been living at this address here since December.

RW: Fifteenth.

SAG: Fifteenth of 2016?

RW: Yes.

SAG: Okay. And where were you born?

RW: Alice, Texas.

SAG: Alice like-

SAT: Like-

[background conversation]

RW: Like the name, yeah.

SAG: [OV] Like the name. Okay. And currently, uh, you're employed as a g-uh-
contract-uh-linguist with Pluribus?

RW: Yes.

SAG: Okay. How long have you been employed by them?

RW: I started on 9 February 2017.

SAG: Okay. And where are you currently assigned?

RW: Currently assigned. Like the, uh, NSA 21 code or -

SAG: Uh, just-you can-you can tell me the building.

RW: Okay.

SAG: [OV] Because we have-

RW: [OV] White Law Building, second floor.

SAG: Okay. So.

SAT: I'm sorry, what languages you said? Uhm, I-I heard.

RW: Farsi, Dari, Pashto.

SAT: Okay.

SAG: Okay. [noises] Any other?

RW: No.

SAG: [laughs] I'm kidding. I think that's enough. That's really impressive. Okay, and you live here, uh, by yourself?

RW: Yes.

SAG: Okay.

[noises]

SAG: Very hard without a table and chairs.

RW: I'm so sorry.

[laughter]

SAG: It's – you don't have to apol-it's your house. Uhm, if you-if you do feel like, you know, you want to sit or anything like that, we'll sit, okay? You know, we can sit on the floor, I don't care. Uhm, if you sit on the floor, I'll sit on the floor.

RW: Okay. [laughs]

SAG: Uh-uhm-and I'm serious about that. If you want to sit, please, I'll-I'll sit down too. Uhm, okay. So, uh, again, we have a warrant. Uhm-and it's in-do-would you like to see it?

RW: Yes, please.

SAG: Okay.

[pause]

SAT: That just gave us the authority to search. It's signed by a federal magistrate judge. This attachment, Attachment "A", is just explaining the property where we can search. The residence, the car, and then you.

RW: Hundred forty-five pounds, you guys flatter me.

SAT: [laughs]

RW: Sorry. I have a sense of humor.

SAG: [laughs]

SAT: Okay.

SAG: It was on your driver's license.

SAT: That's right.

RW: Okay, I lied.

SAT: Uh, don't we all? So Attachment "B", which is three-four pages-just explains the property that we are searching. Not saying all of that's here, but that's what we're authorized to search for.

UM: [SC] [IA]

SAT: And seize.

UM: [SC] [UI] You all [UI] laptop right here [UI] so we'll just go ahead and [IA]. Did you see where it was?

UM: [SC] Yeah.

UM: [SC] It's right here. And, uhm, [IA].

[IA background conversation]

[pause]

SAT: Any questions about any of that? It's probably still a little confusing to you, but.

RW: Mm-hmm.

SAT: But I think as-as he-we go along, I think maybe some of it will become more clear. But just if anything-

RW: Mm-hmm.

SAT: -sticks out, is there any questions you have about that?

RW: No.

SAT: Okay.

SAG: Okay.

SAT: And we'll leave a copy of this-

SAG: Yeah, we'll leave a copy.

SAT: [OV] -with you. Uh, this will be your copy.

SAG: Okay. So-

SAT: [OV] Okay.

SAG: -uhm-all this-uh-stems from a report that we received that you had mishandled classified information, okay? So, that's, uh, the broad scope of it. Uh-my-uh-question is does that-does that ring any bells to you whatsoever?

RW: It-it does now. When I started working at White Law I had-do you know PKI passwords?

SAG: Mm-hmm.

RW: Uhm, I had a printed-out email in my folder, and I didn't have a desk yet, so I took it with me-uhm-passed through security, went to Starbucks, and then came back, and they looked through it, and unfortunately the email that I had printed out was classified. And they filed a report for that.

SAG: And when was that?

RW: That was approximately [pause] probably February 15th or 16th.

SAG: Of this year?

RW: Of this year.

SAG: So it was part of the PKI certificate?

RW: Yes.

SAG: And you had gone to Starbucks, come back, and-

RW: [OV]

SAG: -they checked-they checked a bag or-

RW: [OV] Uh, they checked my folder. I was still in processing, so it was just-uhm-if you're familiar with White Law, you go through the turnstiles just to get to the cafeteria and back.

SAG: Okay.

RW: So yeah, I was-

SAG: [OV] So you had-you had gone to the cafeteria?

RW: Yeah.

SAG: So you were in the building and they nabbed you for-

RW: [OV] Mm-hmm. Yeah.

SAG: Okay. All right. But you're still in the building?

RW: Uh-huh.

SAG: Okay. All right. Uhm, so what-uh-what's your work role there at-uh-at White Law?

RW: Currently I translate graphic documents, uhm, and then. Yeah, that's all I do.

SAG: [OV] Okay.

RW: From Farsi to English.

SAG: Graphic documents?

RW: Yeah.

SAG: Okay.

[pause]

SAT: You're assigned to a specific section, I guess, or a group? Is that the way it works over there?

RW: Yes.

SAT: And what is that group or section?

RW: [OV] Uhm, it's the Iranian Aerospace Forces Office.

SAT: Okay.

SAG: Have you been assigned there your entire time there?

RW: Yes, since February.

SAG: Okay. All right. Uhm, is there any other issues or anything that come to mind that might be-might explain [noises] why the report might have been generated? Anything that comes to mind-uh-like, eh, it may be this, may be that?

RW: No.

SAG: No? Yeah. Okay. [pause] Uhm-so-and you currently hold a TS/SCI

clearance?

RW: Yes.

SAG: Okay. How long have you had that?

RW: Uh, I would say since January 2013.

SAT: So you had that while you were in the Air Force?

RW: Yes.

SAG: And you kept it through-through the. Did you-wh-I guess when you left-uh-left the Air Force, you kept. When did you lea-- When did you process out of the Air Force?

RW: Uhm, I processed out of the Air Force, uhm, December-uh-four-December 14th, uhm, 2016. And, uhm, up until that time, I had been looking at contracts to try to get my clearance, uh, renewed.

SAG: Okay. And wh-when did-uh-when did-uh-Pluribus pick you up?

RW: Pluribus picked me up-I believe they gave me the notification around January 11th, between 11th or 13th. Around that day.

SAG: Okay. All right. So your-uh-your clearance just kind of passed through.

RW: It passed through, yeah.

SAG: Okay. All right. So-uhm-as far as you're aware [noise] you haven't committed any security violations or anything you're aware of, other than-than this PKI thing?

RW: Other than the PKI thing, no. I mean, I-I do print documents at work because, uhm, it's just easier for me to translate them by hand.

SAG: Mm-hmm.

RW: But then I put them in the box, and then it doesn't get mixed up with, like, my class notes that I take, because they're-like-I use pretty paper so I never take out white paper.

SAG: Hmm, got it.

RW: [OV] Uhm, we all-Because I know that sounds really dumb, but that's just how I can do it now. After that stupid PKI thing, I was like, no more white paper out of the building.

SAG: Okay. So you-you-you said you printed out stuff?

RW: [OV] Yeah. I printed out-

SAG: [OV] Is there a-

RW: stuff.

[noises]

SAG: [OV] -is there a-uh-why did that come to mind as far as security?

RW: Uhm, it just. I guess it always-I just think about-uhm-you know-having actual papers. I-I can't imagine any other way to get things out of the building, I guess. I'm old-fashioned, so I'm just thinking about that. And especially with the PKI thing-uhm-just making sure I didn't accidentally have something in my lunchbox or anything like that.

SAT: Nothing got out of the building?

RW: [OV] Nothing.

SAT: [OV] You didn't care anything out of the building?

RW: [OV] No. No, I definitely let everything get searched all the time. So, I haven't had any other accidents.

SAG: Okay. All right. So, as far as anything that. I mean, you're. So with Iranian Aerospace, I mean, you're-you're fairly well boxed in, so that's-that's what you concentrate on?

RW: Yes.

SAG: Do you work any other matters? Anything like that?

RW: No.

SAG: Okay. So, uh-so you-you certainly-I mean-you have-you have the access [noise] and you have the need-to-know on-on, uh, on that aerospace stuff. Have you ever inadvertently, either by accident or-or intentionally or whatever-gone outside your access of-as far of-or outside your need-to-know on items?

RW: Outside of my need-to-know on items. Uhm, I do, from time to time, look at a website called My Online, and it is the drone feeds. I used to work a drone mission-

SAG: Mm-hmm.

RW: -so sometimes I'll be in chat with, uhm, my Air Force friends up in Maryland and I'll be watching the mission that they're executing.

SAG: Okay.

RW: Uhm, so it's Afghan stuff. Uhm-and other than that, I mean, just reading basic news articles on NSA Net.

SAG: Mm-hmm.

RW: Uhm-but I've never accessed anything that's, like, [UI].

SAG: Okay. Have you ever gone-gone searching for stuff that's not related, uh, to, uhm, to your-your work role?

RW: No, not unless I have somebody in Maryland ask me a question.

SAG: Okay. Uhm-and I mean, you've kind of already answered this-have you ever taken anything out of, uh, the NSA facility? I mean, you mentioned the PKI, but -

RW: Yes.

SAG: -outside of that, have you ever taken anything out of the facility?

RW: No.

SAG: No? Uh, whether it's a piece of paper. Have you downloaded anything? Emailed anything out?

RW: No.

SAG: No? Okay. Mm.

[pause]

SAG: Have you ever, uh, discussed, uh, any classified material with anybody who wouldn't have, uh, the prior U.S. government authorization? Who wouldn't have the clearance or anything like that? Wouldn't have the clearance and the need-to-know?

RW: No.

SAG: No? Okay.

RW: Not many people ask about Iranian aerospace, so I lucked out.

SAG: So you never discussed, uh, discussed work or anything classified with anybody-

RW: [OV] Uh-uh.

SAG: -outside of work?

RW: No.

SAG: [sighs]

[pause]

SAT: How's the neighborhood?

RW: I did not look at a map when I signed the lease, uh, but I'm well armed.

SAG: [laughs]

SAT: You seem to be.

[laughter]

SAT: What are your plans? You going to stay in the house or are you going to move somewhere else or -

RW: Uh.

SAT: Did you sign a lease, I guess?

RW: I signed a lease, and I would only break it if I get a deployment.

[coughing]

SAT: [OV] Yeah.

RW: [OV] So.

SAG: Mm-hmm. Have you had any issues here, since you moved here?

RW: I did, yeah. [laughs]

SAG: What happened?

RW: Uhm, I came home from a concert in Atlanta. It was about three a.m. and-

[background conversation]

RW: -there was a man on the street, so I was making sure that, you know, he could not see me go from my car to the house. [noises] Uhm, and I thought I timed it out well. And I'm standing there at the sink getting water and someone starts knocking on my door--

UM: [OV] Do you have a toothpick?

SAT: [OV] Huh?

RW: -and-at three a.m and my keys and my phone were right by the door where I dropped them, because I had to pee. Uhm, so yeah. [laughs] very glad to have a Glock Nine in the back.

SAG: Oh. Yeah.

RW: [OV] Did not sleep. [laughs]

SAT: I'm sure.

SAG: [OV] Anything other than that?

RW: Other than that.

SAG: [clears throat]

RW: Uhm. No. There's this-people always ask if you want your lawn done and someone came and mowed my lawn while I was in Belize last weekend. So I'm not really cool with that. [laughs]

SAT: I imagine not.

SAG: [OV] They're probably going to come by and ask for-knock on the door and ask to be-

SAT: Yeah.

RW: [OV] Yeah.

SAG: -compensated.

RW: Yeah. I mean, he's-

SAG: [sneezes]

RW: If-if it was the guy I paid last time, he's this little old man, like, in his eighties, so I won't be, like, really mad but-

SAT: [OV] Right.

RW: Yeah.

SAT: Right.

RW: [laughs]

SAG: When-uh-when did you go to Belize?

RW: I left on Saturday morning and flew back Monday morning. Just last weekend.

SAT: That was a quick trip to Belize.

SAG: [OV] Uh, a quick trip.

RW: It was quick. [laughs]

SAT: What'd you go down there for?

RW: Uhm, I wanted to see the Mayan pyramids.

SAT: Okay.

RW: And so. Yeah.

SAT: That's pretty cool.

RW: I didn't have any leave, and I was just tired of waiting for the stars to align, so I just said-

SAT: [OV] Sure.

RW: -you have three days, do it.

SAG: [laughs]

SAT: That's cool.

SAG: Fair enough.

SAT: Spur of the moment. That's pretty cool.

SAG: Did you go there by yourself or.

RW: [OV] Yeah. By myself.

SAG: [OV] Okay. Did you do any tours or anything down there?

RW: On the first day, they took me to, like, an Alton Hau [PH] tour. So, that's one of the sites. And then the second day, we went, uhm, down the river on a boat, and we did the Lemani Pyramids, and then came back. And then, yeah.

SAG: Okay.

SAT: Uh-huh.

SAG: All right.

RW: Saw a bunch of monkeys.

SAT: [laughs]

SAG: So you're positive you've never printed anything out that was outside of your work role?

RW: Trying to think.

SAT: [clears throat]

RW: Because I know. I mean, like, there's NSA Pulse, and every now and then I print articles from there like, as scratch paper. Like, it sounds really dumb. Like, now that I'm thinking about it, like, the things that I did were really dumb. But those always go into the, uhm, the burn bin.

SAG: Okay. What kind of articles from Pulse do you pull out?

[barking]

RW: Uhm, usually reference material about, like, [REDACTED]
[REDACTED] Uhm, just making sure, like, so many references that I keep having to re-look up-

SAG: [OV] Mm-hmm.

RW: -it's just-I'm very textile, so if it's just, like, right on my desk, I can look at it instead of flipping through windows.

SAT: Mm-hmm.

RW: So that's probably fraud, waste, and abuse right there. [laughs]

SAG: Okay.

RW: [laughs]

SAT: We're not worried about fraud, waste, and abuse.

RW: [OV] Okay.

SAG: No.

RW: I use a lot of paper. Uhm, but nothing outside of, like, Iranian stuff or anything else out of that, and never outside of the building.

SAG: Okay. Reality, what if I said that I have the information to suggest

that you did print out stuff that was outside of that scope?

RW: Okay. I would have to try to remember.

SAG: Okay. What if, uh, I said that you printed out information related to, uh, reports
on [REDACTED]?

SAT: Reality-uh-you know-we obviously know a lot more than-than what we're
telling you at this point. And I think you know a lot more than what you're telling
us at this point. I don't want you to go down the wrong road. I think you need
to-to stop and think about what you're saying and what you're doing. Uhm-
you know-I-I think it's a-an opportunity to maybe tell the truth. Because, uh,
telling a-telling a lie to an FBI agent is not going to be the right thing.

RW: Mm-hmm.

SAT: Okay? Uhm, you know-and again, we're here voluntarily. You're talking
voluntarily. I'm not asking you-forcing you to do anything.

RW: Mm-hmm.

SAT: But think-that's-that's what I'm asking you to do, is to think. So, think about
what he just asked.

RW: Mm-hmm.

SAT: And let, you know.

RW: [REDACTED] There was one I printed out because I wanted to read it.

SAT: Hmm.

SAG: Which one was that? And-

RW: [OV] Mm.

SAG: -mind the-the sensitivities of the-

RW: [OV] Sensitivity.

SAG: Can you remember what day you printed it out?

[pause]

RW: I might mess up the date, but late-late March, early A-first two weeks of April.

SAG: First two weeks of April?

SAT: And what was it?

RW: It was a-

[cough]

RW: -it was an NSA Pulse article about [REDACTED]

RW: And yeah, I did-I did print that one out.

SAG: Okay. Uhm, why, uh, why did you print that one out?

RW: Uhm, I wanted to read it and I just-I-the way I downloaded it, it just was hard for me to read and I wanted to just look at it because-it looked like a piece of history.

SAG: Mm-hmm.

RW: You know? Uhm, so I wanted to have that on my desk for, like, a day.

SAG: Okay. Did you, uh, how did you find it?

RW: Uhm, so when you open up Pulse, it has the-

SAG: [clears throat]

RW: -uhm, there's a little window at the top right that says, uhm, top articles.

SAG: Mm-hmm.

RW: And sometimes I scan those. Uhm, I don't know if you saw the one about the miniature ponies, but that one was, uh-

SAG: I missed that one.

SAT: [laughs]

RW: Yeah, it was number one for, like, a year, so-

SAG: [snorting noise]

RW: -obviously I go to check that now to make sure any other gems, and then that one was right there. And, you know, just-I saw on the news, and I was like, I want to read this. And. Yeah.

SAG: Okay. And what did you do with the article?

RW: I kept it on my desk for, like, three days. Uhm, I'm going to be honest, I read, like, half of it. I don't-it was, like, the stupidest thing ever. And then I burn bagged it in the box that's-has a little slot on it by the fridge.

SAG: Okay. Uhm, how about any other times?

RW: Any other times?

SAG: Did you search for anything on the [REDACTED] any other times?

RW: Uhm, that did spark my curiosity and so, like, I just kept tabs on reading those articles. Uhm, looking at, uh, the [REDACTED] was interesting to me.

SAG: [OV] Mm-hmm.

RW: So I did read s-some of those.

SAG: Okay. Did you ever go searching for them? Ever go digging?

RW: Uhm, nothing more than, like, a [laughs] a ten-minute detraction from work, you know?

SAG: [OV] Okay. What, uh, what were you-how would you do it?

RW: Uh, just type in the search box, [REDACTED] and then scroll.

SAG: Okay. All right. Did you print out any of those articles?

RW: Uhm, let me think. No. The-the only one was just the one that was, like,
[REDACTED]

SAG: Okay.

SAG: Was it, uh, what was the-talking around it. What was the. And you're pretty sure that it was late April, early March? Think about, uh, try to remember, like, details in your personal life and-

RW: I know, I'm trying to-I remember that week, I got in a fight with the boyfriend that week. Uhm, April. Let's see, March, April. [sighs] When did I break up with him? [sighs] Maybe we started dating in March, so. It had to have been sometime in April. Uhm. [noises] I'm just really going blank on what week that was. I'm trying to think what weekend-what the weekend was like after that. I'm so sorry. Uhm--

SAG: [OV] No. It's okay.

RW: [OV] -I'm trying. Uhm. I mean, yeah, mid-April is, like, all I'm thinking.

SAT: [clears throat]

SAG: Okay. All right. What if I told you that I know that you searched for and printed out a document on the ninth of May?

RW: Ninth of May. [pause] Let's see, the CrossFit competition was on the 12th. Was it really that late? [pause] Uh, I guess I-I can't argue that. Uhm.

SAG: Okay.

RW: If you-if you know-I mean-obviously you know. Uhm-

SAG: [OV] Okay.

RW: I'm just-I-I can't imagine. [sighs] I guess we're already June already, so yeah. It's been a really bad month for me, so.

SAT: This would have been three and a half, four weeks ago, roughly.

SAG: [OV] Mm-hmm.

RW: [OV] Yeah.

[noises]

SAG: Okay. Do you remember what you did to get to that article?

RW: Other than either seeing it on the front page or linking it from another. I'm just.

SAG: Do you remember what search terms you might have put in?

RW: Probably [REDACTED] [laughs] I'm not very sophisticated. Uhm. Yeah.

SAG: Okay. So, you printed out the document-you printed out a document, uh, intelligence report on-on this. You-you do recall that?

RW: Yes, I do remember now, yeah.

SAG: Okay. [sighs] What did you do with that document?

RW: Like I said, I-I kept it on my desk for three days because I just-I thought it was interesting and I thought I would read it. And then I said no, and I need to not leave it out on my desk, so I-

SAG: [OV] Mm-hmm.

RW: -put it in the burn bag.

SAG: You put it in the burn bag?

RW: [OV] Yeah.

SAG: [OV] Okay, where's the burn bag?

RW: Okay, so the burn bags are [sighs] in the break rooms and they're this little white box with the slat, and it's one over from the fridge.

SAG: Okay.

RW: In White Law.

SAG: So you just-you slide it in there and then-

RW: [OV] You slide it in there, yeah.

SAG: And then it's taken care of?

RW: Yeah.

SAG: Okay.

RW: It's.

SAG: All right. Reality, are you sure that's what you did with it?

RW: Yes.

SAG: You're positive?

RW: Yes.

SAT: You didn't take it out of the building?

RW: No.

SAG: Okay. You didn't take it out of the building and give it to anybody else?

RW: No.

SAG: You didn't send it?

RW: No.

SAG: You didn't send it to anyone?

RW: No.

SAG: Okay.

SAT: [sighs]

SAG: Reality, uh, can you guess how many people might have printed out that document?

RW: No.

SAG: It's not many. That document has made it outside. Okay? Obviously, because we're here.

RW: Obviously, yeah. Crap.

SAG: The most likely candidate, by far and away, is you. Now, I don't- [sigh]
-I don't think you are, you know, a big bad master spy, okay? I don't. I don't think that. I think that-I've looked at the evidence [noises] and it's compelling. Now, I'm not sure why you did it, and I'm curious as to that, but I think you might've been angry over everything that's going on, politics-wise. Because you can't turn on the-you can't turn on the TV without getting pissed off. Or at least

I can't. And I think you might've made a mistake. Now, why I'm here and why I want to talk to you, is to figure out the why behind this, okay? So, I ask you again-did you take it out and send it?

RW: I didn't. I put it in the burn bag.

SAT: [sighs]

RW: I mean, I'm trying to deploy. I'm not trying to be a whistleblower. That's crazy.

SAG: Hmm. So how would you think that a document would end up getting out?

RW: I-I mean, there's-there-I mean, I-let's-let's be s-straight-there's little to no security on documents. Nobody pats you down.

SAG: Mm-hmm.

RW: You know, and we talk about it all the time because it's like, oh, I have to show my food. Oh, "you eat so healthy," like, every day, you know? A-and people about it at work. You've got a building full of geniuses, right? Like just. I guess I'm nervous and talking, but no, I mean, the I-that's the last thing I would've wanted to do with that. Especially with, you know, right now, trying to get somewhere else, trying to increase my clearance.

SAG: Mm-hmm.

RW: You know? It was an article on [REDACTED] and it was very sensitive and I thought I would be cool if I had it on my desk for a couple days.

SAG: Okay. But you remember-you said you remember putting it in the burn-in the burn bag? Sliding it in there.

RW: Yeah.

SAG: Okay.

RW: [OV] Folded in half. I mean, I remember it.

SAG: Folded in half?

RW: Yeah, uh, it's-it-because it didn't-yeah, I folded it in half.

SAG: [sighs] Okay. What if I tell you that that document, folded in half, made its way outside of NSA?

[pause]

RW: I don't-I don't know - that.

SAG: It made its way-

SAT: [clears throat]

SAG: -out in an envelope, post-marked Augusta, Georgia. See, things are starting to get a little specific.

RW: Okay.

SAG: It made its way to an online news source that you subscribe to. Getting really specific. So, I'm going to ask you again.

[pause]

SAG: What is very, very, very compelling. I'd like to know the reason, because I don't think-I don't think you make it a habit out of this at all. At all. I really do. I think you just messed up. Now, I'm not quite sure why you did it, and

I'd like to hear from you on that, but w-the what and the how is-would you agree, looks awfully bad?

RW: It looks really bad.

[pause]

SAG: If you're angry about what's going on, if there's something that. Look, you've had a good career. You have. If there's something that just pushed you over the edge on this, now is the perfect time. This is a podium.

SAT: You know, like he said, I-I don't think we're coming in here to say you're some big bad mastermind-

RW: All right.

SAT: -prolific spy kind of thing. I-I think what we both think is that maybe you made a mistake. Maybe you weren't thinking for a minute. Maybe you got angry, like he said. I mean, that-that's-that's what I'm hoping. If that's-that's the case, then that makes us feel a little better knowing that we don't have a-a real serious problem here. You know, uh-uh that's something that concerns us, too, this isn't an ongoing problem. But we need to figure it out. And if it was a mistake, let's deal with it.

[pause]

UM: Is this-is this a room? Is that a room? [UI]

[background conversation]

SAG: So how did you get it out of the office?

RW: Folded in half in my pantyhose.

SAG: Okay. [sighs] And what did you do with it?

RW: Put it in an envelope and sent it to [REDACTED]

SAT: Anybody specifically there?

[pause]

RW: I don't think I put a name on it. I just put [REDACTED]

SAT: Had you communicated with [REDACTED] prior to you doing that? With -

RW: No. I wasn't trying to-wasn't trying to be a Snowden or anything.

SAT: And that's what-I don't think you were, either. I really don't. And that's. But, uh, I-I think you made a mistake. But I th-th-I don't think either one of us think you're trying to be Snowden.

RW: No, it was just that one document, because like you said, in the [REDACTED]
[REDACTED]

SAT: Right. Mm.

RW: [OV] The proof that-you know. And I guess it's just been hard at work because. And I've-I've filed formal complaints about them having Fox news on, you know? Uh, just at least, for God's sake, put Al Jazeera on, or a slideshow with people's pets. I've tried everything to get that changed.

SAT: [OV] That would probably be a good thing. Unfortunately, it doesn't matter side you're watching, I think they're all [laughing] pretty bad-

RW: [OV] I... Yeah.

SAT: -right now, but-

RW: [OV] Just.

SAG: [OV] Uh.

SAT: -I think the pets may be the way to go.

[noises]

RW: The pets would have been great. Uhm, but just having that every day, and then

[REDACTED]
[REDACTED] And, uhm-

SAT: [OV] Right.

RW: Yeah.

SAT: Where did you mail it from?

RW: The mailbox is on Bastonne [PH] Road.

SAT: Okay.

RW: It's in a shopping center with a bank and an Earth Fare grocery store.

SAT: Okay. I know where you're talking about.

RW: Uhm, intersection of Bastonne [PH] and Furys Ferry.

SAT: [OV] Furys Ferry. Okay.

SAG: Mm-hmm.

RW: I can never say that, Furys Ferry.

SAT: And it was just a mailbox sitting out in the middle of the parking lot?

RW: Metal box, yeah.

SAT: Okay.

SAG: [OV] Okay.

RW: [OV] And, uhm, it was-

SAT: [OV] Do you remember what day that was?

RW: [sighs] What day of the week was the ninth?

SAT: [sighs] Let's see, it's-

SAG: [OV] We'll check. Do you need some water or something?

[noise]

RW: I would like some water once I find out what day of the week it was.

SAG: Okay.

SAT: Let's see, I want to say it was. If I can figure out this crazy phone. I want to say it was a Tuesday.

SAG: [coughs]

RW: Tuesday.

SAT: It was a Tuesday.

RW: Tuesday.

SAG: Is there something significant about-

SAT: [OV] Uh--

SAG: -the ninth in other ways?

RW: No. The ninth must have just been the first day I saw it. Uhm. [sighs]

SAT: So you.

RW: I might've-it-either the 11th or the 12th. If I subbed yoga on the night of the 11th, then my yoga studio is right there.

SAT: So it would've been Thursday or Friday?

RW: Thursday or Friday.

SAT: Okay. What yoga studio?

RW: It's called Oh Yeah Yoga. Uhm-

SAT: [OV] Is it where Earth Fare is or is it somewhere else?

RW: It's right across the street behind the CVS by the laundromat.

SAT: Okay. Okay. There's, like, some limos-

SAG: [OV] So-

SAT: [OV] -or something, isn't that, there?

SAG: [OV] Okay. Yeah.

RW: [OV] Yeah.

SAT: Yeah.

SAG: So, you-you said you mailed it maybe Thursday or Friday?

RW: Mm-hmm.

SAG: Okay. How did you know to, uh-uh, mail it to [REDACTED]

RW: [REDACTED]

SAG: [REDACTED]

RW: Yes.

SAG: Okay. So you wanted-you wanted, uh, [REDACTED] to be able to publish this?

RW: Yeah.

[pause]

SAT: Is that the only thing you've sent them?

RW: Yeah.

SAT: Did you send it anywhere else?

RW: No.

SAT: No? No other publications or anybody else that you've shown it to or given it to?

RW: No.

SAG: Is there going to be anything here that we're going to be surprised to find?

RW: No. I - [sighs] I never took the document out of my car.

SAT: Okay. Is there anything on your phone or your computer?

RW: The phone might have a. I don't know if I deleted it, but I'm sure you guys can see all of that anyway. It's going to have a screenshot of the address to [REDACTED]

[REDACTED]

SAG: Okay.

SAT: Okay.

SAG: You mentioned you want some water?

RW: Yes.

SAT: Yeah, why don't we-

SAG: [OV] I'll make it. Uh-I'm just going to get somebody out here. Hey, can I have somebody in here, please?

UM: Uh, yeah.

SAG: Uh, do you want a bottle of water? What's-what's your preference?

RW: Uhm.

SAG: Do you have a filter in the fridge, or do you just want tap water?

RW: Tap water. There's a glass or a mason jar by the sink.

SAG: Okay. Can I get one person to just stand there so I can [IA].

[background conversation]

UM: Do you guys [UI]. I don't think you'll fit in there anymore. She won't fit in there anymore.

SAT: [laughs] She still under the bed?

UM: Huh?

SAT: [OV] Cat? Is the cat still under the bed?

UM: Oh, she's a big girl.

SAT: [laughs]

RW: Oh yeah. We're trying.

SAT: How old is she?

RW: [sighs] She's three years now. Uhm, she's actually on my lease as Queen Latifah.

SAT: [laughs]

RW: We're trying to get her down to, like, a Beyonce size ten.

SAT: [laughs]

RW: But girl likes to eat.

UM: [OV] Oh yeah.

RW: She likes carbs.

UM: She's got a little slim fit on her.

SAT: That's right.

RW: [sighs]

UM: When she came out, I was like, whoa.

RW: Yeah, she will snatch bread right out of my mouth, like--

SAT: [OV] Wow.

RW: -girl, you don't need those.

SAT: [laughs]

SAG: Water.

RW: Ah. Thanks.

SAT: So other than the screenshot on the phone, there shouldn't be anything else? And there should be nothing on the laptop?

RW: Nothing on the laptop. I do have a TOR browser.

SAT: Okay.

SAG: [OV] It's a-

SAT: [OV] Uhm-

RW: [OV] Which probably looks bad but I-

SAG: What do you use-what do you use the TOR browser for? [clears throat]

RW: Uhm, there was one day when I was interested in WikiLeaks and then I opened it up once, I shouldn't have done. I was in between jobs, just had gotten out of the Air Force-and, uhm, I opened it u-I was at a Starbucks. And it was just. I guess I was really underwhelmed. There was just nothing there. [laughs] I was like, oh-

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SAG: [laughs]

RW: -I don't know how you can make use of this shit, but okay.

SAG: [laughs]

RW: Uhm, so yeah, that's why I have a TOR browser on the laptop. I don't think I used it again.

SAG: Okay.

RW: It was just more b-you hear so much about it.

SAT: Right.

RW: I couldn't help it.

SAG: [OV] Oh yeah.

SAT: [OV] Most definitely.

RW: [OV] Like, soon as I was out of the Air Force was like, that's what I'm going to do.

SAG: Yeah, it's-

RW: [laughs]

SAG: -it's am-it's amazing how many people-it's like, I got to go see. Um.

RW: [laughs] Yeah. Great.

SAG: [OV] The-your computer has a [noises] password on it. Uh, would you mind giving us the password?

RW: Six seven eight, capital I-N-S-D-E-L.

SAG: Okay.

[pause]

SAT: [sighs]

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SAG: Have you had any contact with anyone from [REDACTED]? Have you tried to reach out?

RW: No. I. Yeah, it just. [sighs] Li-like you said, I just, I-I saw the article and was like, I don't understand why this isn't a thing. And it-I just--

SAT: [OV] It made you mad.

RW: It made me very mad, and-

SAT: [OV] Sure.

RW: -it's right there. Uhm, and I don't care about. I-I just-I guess I didn't care about, like, myself at that point, and just. Yeah. [noises] I guess. Yeah, I screwed up royally.

SAG: Well, [sighs] [noises] that, uhm, like I said before, I don't-I don't see you-I believe you when you say that you didn't take anything else. I do. I think you made a mistake.

RW: Mm-hmm. Yeah. Uhm-

SAG: [OV] Has-have you ever-before you were here, when you were. Uhm. Actually, this wasn't necessarily before you were here. It depends on your TDY. Uh, wherever you. Like, where did you finish up in the Air Force? Like in November of this past year.

RW: In November when I out-processed, I was up in Fort Meade.

SAG: Okay. Uhm. Did you ever have any-do anything with a thumb drive?

RW: Mm. [sighs]

[background conversation]

RW: Thumb drive. [sighs]

SAG: Shortly before you left?

RW: Shortly before I left. [sighs] [pause] Yeah, I was curious to see what would happen and the administrator thing popped up, and I was like, okay, whatever, and then threw the dumb thumb drive away.

SAG: Okay, so you-you put a thumb drive into one of the computers?

RW: Mm-hmm.

SAG: What was the classification on the computer?

RW: It was Secret.

SAG: It was a Secret computer?

RW: Yeah.

SAG: Okay. Uhm, w-.. You said you were curious. Why were you curious?

RW: I guess I wanted to see how people were getting unclass pictures onto the high side. Like, I thought I would figure it out.

SAG: You-you guess or?

RW: [laughs]

SAG: I mean--

RW: Yeah.

SAG: You're equivocating on that. So-so. Because you were just about to leave, so what's the point of-

RW: [OV] I've-

SAG: -plugging a thumb drive in a computer? You see where I'm going with this?

RW: Yeah. I just. Yeah, I figured if there was a day to try to figure that out, I mean. Yeah. But.

SAG: Did you put anything onto the thumb drive?

RW: No.

SAG: Did you plan on putting anything into the thumb drive?

RW: No. I mean, if I was really lazy, probably my resume, which had just

been approved, but. No.

SAG: Okay.

SAT: So other than this-this one document, there was nothing else, either here or there-

RW: No.

SAT: -that you accessed, took out, put on a thumb drive, printed and mailed any of that?

RW: No.

SAT: No? Okay.

SAG: Okay. [coughs] Uhm, in regards to the document that you did put out, when you did you realize that-the technical capabilities in that article?

RW: Sources and methods.

SAG: Sources and methods are valuable to adversaries.

RW: Yeah.

SAG: Did you know that before you printed it off, as you were taking it out?

RW: Yes.

SAG: Okay. Uhm, did you know that if that got out, that those sources and methods could be compromised?

RW: If they haven't been already, then yes.

SAG: Okay. W-with that in mind, why did you make the decision to send it anyway?

RW: [sighs] I had figured that, uhm, [REDACTED]

█████ that it didn't matter anyway. Uhm, honestly, uh, I just figured that whatever we were using had already been compromised, and that this report was just going to be like a-one drop in the bucket.

SAG: Now, did you know that that █████ in that report-did you know that that had been compromised for a fact?

RW: No, I wasn't smart enough to check that out.

SAG: Okay. And [sighs] you're-you are aware that sending-that █████ does not have, uh, authorized access to classified information?

RW: I am aware of that.

SAG: And you were aware of that at the time that you sent it?

RW: I was aware.

SAG: Okay.

[pause]

SAG: [sighs] Okay. Is there anything else that you want to tell me about? Say? Talk about why?

[pause]

RW: No, it was just. Yeah, just that-that day-that week, it was just too much and just sit back and watch it and think, why do I have this job if I'm just going to sit back and be helpless and, you know, just-it was just. [noises] Oops, sorry. Uhm, yeah. I just thought that that was the final straw. [IA]

SAG: [OV] Was there something that-that just kind of [fingers snapping] did it?

SAT: [cough]

SAG: Because you don't seem the type to do this. I-I believe it. I want to believe it.

RW: I-I'm-I'm not. I-I'm not. You know, I-I want-I want to go out with our Special Forces. That's why I got out of the Air Force. I mean, that's why I'm here in Augusta. I wanted my clearance back so I could get a deployment, and it was just at a time when I wasn't applying for deployments. I had, you know, seven, eight months left of a job that didn't mean anything to me because it's Iran, and I'm a Pashto linguist. Like, what am I doing translating Farsi? It just- it just - I felt really hopeless and, uhm, seeing that information that had been contested back and forth back and forth in the public domain for so long, trying to figure out, like, with everything else that keeps getting released and keeps getting leaked-why isn't this getting why isn't this out there? Why can't this be public?

[REDACTED]

SAG: Okay. Were you surprised to see us today?

RW: Yeah. Actually, I thought that, [laughs] uh, you were people coming to ask about the house, because it's still for lease online. Uh-

SAG: [OV] Because you did not seem surprised when we pulled up. [laughs]

RW: Oh, God-well, I-I have a resting bitch face, so I was just like, maybe they're going to turn around.

SAT: [laughs]

RW: And then FBI. I was just like, what is going on, you know? And you showed me your badge right up, and, uhm, I submitted a security packet yesterday, uh, for my clearance on E-QIP. So, uh, that's what I thought it was for. I'm like, why are you guys going to question me for my own clearance? But. ..

SAG: Okay.

RW: Yeah.

SAG: [sighs] So.

RW: [OV] Guess that's not going to happen.

SAG: [sighs] Well. [sighs]

SAT: Anything else you can think of? Okay.

SAG: Okay. Uhm, what we have to do is we have to do the search.

RW: Of course.

SAG: Uhm, now you said that. [coughs] I'm sorry. I have a sinus infection, so I sound-

RW: [OV] It's okay.

SAG: -I'm-so I sound awful.

RW: [OV] This is the best room to be in with it.

[noises]

SAG: [REDACTED]

RW: Yes.

SAG: [OV] Okay.

RW: [OV] If it's there.

SAG: Do you remember the site from memory?

RW: Uhm, it's just the-[REDACTED] and if you go, scroll down, at the bottom-
uhm-contact. It-it's not as obvious as you think. [noise] [REDACTED]
[REDACTED]

SAG: [OV] Mm-hm.

RW: [REDACTED] because it was closer.

SAG: How long did it take you to find it?

RW: Uhm, uh-uh, probably like three minutes of scrolling, which probably felt like an eternity sitting in my car.

SAT: Mm-hmm.

SAG: Okay.

RW: Yeah.

SAG: You said that the document stayed in your car-

RW: Yes.

SAG: -whole time? Okay. Did you have a-a-where did you get the envelope?

RW: Box of envelopes is, uhm, in the backseat of the car, behind the driver's seat. I just, uhm, had a bunch of forms I needed to mail out last December, so, uhm, they'd been sitting back there since December.

SAG: Okay. And the stamps?

RW: Stamps. There might be one or two left, but I keep my stamps in my glove box, in case I need to mail things out, like bills and stuff.

SAG: Okay. In your glove box?

RW: In my glove box, yes.

SAG: Okay. [sighs] All right. Trying to think if I've got anything else. Uhm- The-the search-the guys will continue the search. Uh, they'll search the vehicle and the house, and, uh, uhm, and the photograph-they'll photograph everything. Uhm, and, uh, you, uh, the search team leader is going to sit down with you and go through things that have been seized. Uhm, uh, your passport. Where is that?

RW: My passport is-it is either on the trunk in front of the TV or on-in the center part of the desk, or in the closet in a camouflage backpack in the top front compartment.

SAG: Okay.

SAT: Yeah.

RW: Sorry.

SAG: [OV] Reason-

RW: [OV] I OCD-I just [UI] these things.

SAG: [OV] Okay. Reason-reason I ask is that, uh, you went to

Belize. RW: Belize.

SAG: Did you meet with anybody in Belize?

RW: No. I stayed at a resort. Uhm, a family of four. Uhm, if you have my phone or my computer, you'll see the emails back and forth with the family. And, uhm, they picked me up, took me to the resort and then took me back.

SAG: Okay. Uhm, did you include anything in the envelope that you sent to [REDACTED]

[REDACTED]
[background conversation]

RW: [REDACTED]

SAG: [REDACTED]

RW: [REDACTED]

SAG: Okay. So, did you include any notes or anything like

that? RW: No.

SAG: Okay. Any identifiers?

RW: No.

SAG: Did you-mm-ps-put in anything that would, uh, give them a way to contact you or that you were traveling to Belize?

RW: Absolutely not, no.

SAG: Okay. All right. So. [sighs]

UM: [UI]

[background conversation]

SAG: Do you have any questions for me?

RW: So many. Uhm.

SAG: Mm-hmm?

RW: This-this sounds really bad. Am I going to jail tonight?

SAT: [UI]

SAG: I don't know the answer to that yet.

RW: Okay.

SAT: What was your question? Sorry.

SAG: [OV] If she's going to jail tonight.

SAT: Oh.

SAG: Said I don't know the answer to that-

RW: [OV] Okay. Of-

SAG: -quite yet.

RW: [OV] -course the search is going on. Uhm, in any case of that, I do not have memorized, uhm, the woman-her name is Cathy-she works at the Augusta Humane Society.

SAT: Okay.

RW: Uhm, she can come and pick up the dog in the case that I, uhm, uhm, am not going to be here tonight.

SAT: Yeah. Well, let's don't-

SAG: [OV] Okay.

SAT: Yeah.

RW: [OV] You know, and that's-

SAT: [OV] Let's don't get the cart before the horse right now.

SAG: [laughs]

RW: Okay.

SAT: [OV] Okay?

RW: [OV] That's-that is my only concern-

SAT: [OV] I understand, i-it-

RW: [OV] -is getting her-

[noises]

SAG: [OV] Yeah.

RW: -and then maybe one more phone call to get the cat covered.

SAT: We'll figure that out.

SAG: [OV] Well-

SAT: [OV] If-if it comes to that, we'll-we'll-

SAG: [OV] -if-if that.

SAT: [OV] -figure that out.

SAG: [OV] And I don't know the answer to that yet. And I'm going to-

RW: [OV] Okay.

SAG: -I'll-we'll-we'll-we'll cross that bridge when we get to it.

RW: Okay.

SAG: So, uh, [sighs] what else?

RW: Well, my green NSA contractor badge is in the front seat of the car where I left it yesterday after work. Did not bring it into the house because I was lazy. Uhm, I guess I'm not going back to work, uh, on Monday.

SAG: I don't have anything to do with that.

RW: [sighs] Okay.

SAG: Uhm, a lot of that might, you know-we'll-we'll figure that out, so.

RW: [OV] Yeah. Okay. So.

SAG: Is there anything at the-at your desk at work that I should be worried about?

RW: I have an Anderson Cooper photo that is signed. It's not legit. Uhm.

SAT: [laughs]

SAG: [laughs]

RW: It's-it-it-he's quite good looking so that is something that you must contend with.

SAG: The m-the-the-the man cuts a figure, what can you say?

[barking]

RW: Yeah. Uhm, no. However, on my keychain, uhm, I can give you the key to my locker. I use the locker directly to the left side of the desk, only the top portion, and it is locked. [noise] Uhm, if that is where you are searching, there's a grapefruit in there.

SAT: There's nothing that shouldn't be-like that we would concerned about?

RW: Oh, no. Classified documents? No.

SAT: [OV] Yeah, I'm not-

RW: [OV] There shouldn't be any reports in there.

SAT: [OV] -I'm not worried about a grapefruit or a picture of-

SAG: No.

SAT: -Anderson Cooper.

RW: Okay. [laughs] Uhm, yeah, other than that, there's just a bunch of recycling.

Uhm-

SAT: Okay.

RW: -and a folder of in-processing documents.

SAT: Okay.

SAG: Okay. [coughs] Uh, what else you got for me? What other questions?

RW: [sighs] Uhm. [pause] I mean, just I told you that I sent a report, so. Yeah. And I feel like you're-if I ask you, like, what's going to happen to me, you're going to say that you don't know at this point, so that's kind of my only concern. And my ability to keep these two animals alive, uhm.

SAT: We're going to take - If-if-if it-if it comes to that-

SAG: [laughs]

SAT: -I promise you-

RW: Okay.

SAT: [OV] Uh, everybody in this house will take care.

SAG: [laughs] [OV] We're-we're not going to do the-

RW: Yeah.

SAT: Uh, we're not going to leave these animals, I promise you.

RW: [OV] Okay.

SAG: [OV] No.

SAT: And it is-we truly don't know at this point. Uh-uh, you know, he's going to have to go talk to some people. We're going to have to make some phone calls.

RW: Mm-hmm.

SAT: And we'll go from there. Uh-uh, I don't know that it's really our decision at this point.

SAG: It-

RW: [OV] Yeah.

SAT: [OV] Uhm-

SAG: [OV] -and it's not. It's not.

SAT: But.

SAG: [sniffs]

RW: Yeah. All I'm saying is I-I know, uhm, what I did, and so. At that point, I'm not thinking about myself anymore, so.

SAT: [OV] Right. Well, why don't we, uh, start making some phone calls.

SAG: Yeah. [sighs]

SAT: So. Give you a break. If you want some more water or something.

RW: I would love to use the restroom. How is that going to work?

SAT: [OV] Okay.

SAG: [OV] Oh. Yeah.

SAT: [OV] Let's, uh, let me s--let's see-

SAG: [OV] Let's-

SAT: [OV] -uh-where we are, if we can-

SAG: [OV] Here, let me-

SAT: -make that happen.

[noises]

SAG: [sighs]

[background conversation]

SAG: We just got to make sure that they're done, out of the bathroom, so we can give you privacy.

~~SECRET//NOFORN~~ UNCLASSIFIED//FOUO

File Number: [REDACTED]-AT-2173732

Recording Name: 170603_01.WAV

SAT: Hey, I'll stay in the bedroom. She can use the restroom.

SAG: Okay. There's nothing in the, uh, in the restroom as far as weapons?

RW: There's a nail clipper in the orange bag.

SAT: Okay.

SAG: Okay.

SAT: I think we can, uh-

SAG: I think that's okay.

UM: [laughs]

RW: Okay.

[noises]

UM: They taught us how to deal with those in the Academy when we were.

UM: And we'll go stand here to the [UI].

UM: [OV] [UI]

RW: Yes. Uhm [IA].

UM: You turn it off?

SAG: It's still recording. Well.

UM: [UI] two [UI].

SAG: Okay.

[noises]

UM: The ammo [UI] right next to the [UI].

[noises]

[IA background conversation]

~~SECRET//NOFORN~~ UNCLASSIFIED//FOUO

~~SECRET//NOFORN~~ UNCLASSIFIED//FOUO

File Number: [REDACTED]-AT-2173732

Recording Name: 170603_01.WAV

[noises]

[pause]

UM: Rock River [PH]. [IA]

[noises]

[background conversation]

UM: Did they take a picture of that?

[noises]

SAG: Okay. So for one, uhm, we'll, uh, we have a p-uh, would you like to sit down somewhere?

RW: I'm fine.

SAG: You're fine?

RW: Yeah.

SAG: Okay. Uhm. All right. Uh, obviously been recording. I'm going to, uh-uh-uh.

SAT: What's up?

SAG: Going to end the recording.

SAT: I think so.

SAG: [OV] And stop the interview.

UM: I think so.

SAG: So this is at, uh, five-let's call it 5:17 PM, ceasing recording on June third.

[end of recording]

~~SECRET//NOFORN~~ UNCLASSIFIED//FOUO

~~SECRET//NOFORN~~ UNCLASSIFIED//FOUO

File Number: [REDACTED]-AT-2173732

Recording Name: 170603_01.WAV

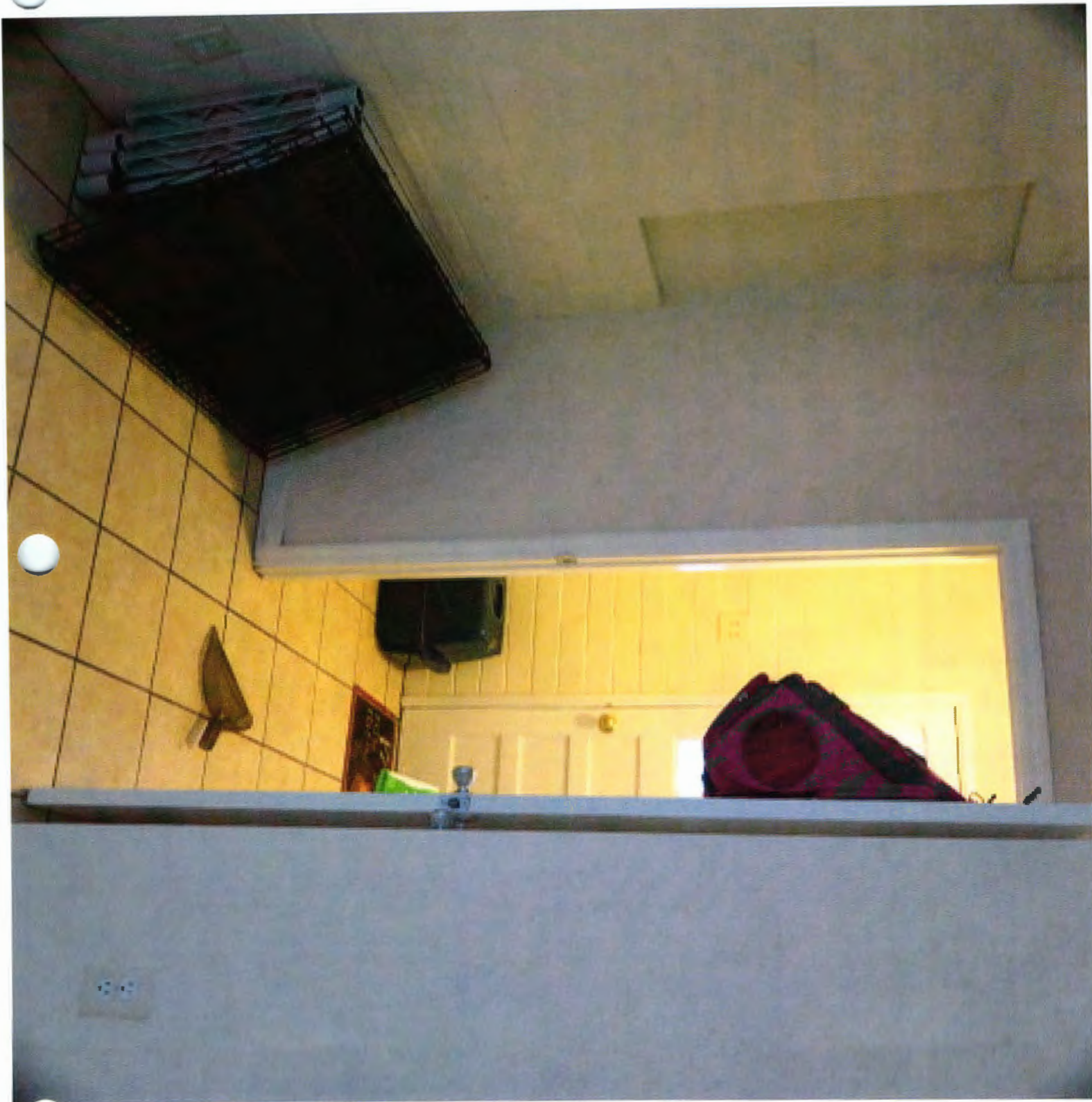
~~SECRET//NOFORN~~ UNCLASSIFIED//FOUO

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Government's Response to Defendant's
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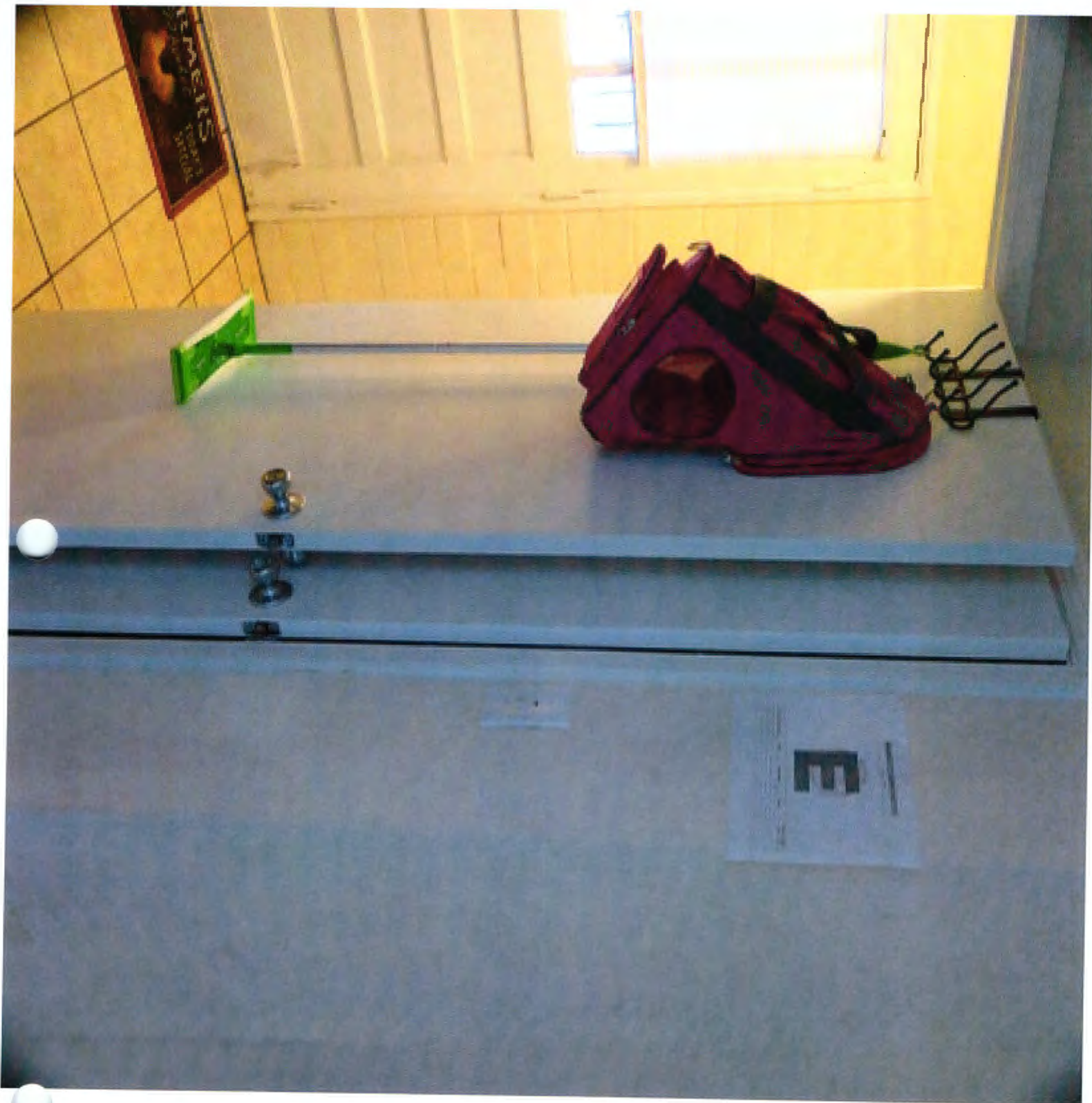
Attachment C – Photos
Taken During Search, June
3, 2017



ATTACHMENT C-2



ATTACHMENT C-3



ATTACHMENT C-4



ATTACHMENT C-5



ATTACHMENT C-6

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Attachment D –Recorded
Phone Calls of Defendant

[To be hand-delivered to
the Court on CD]

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Attachment E – Partial
Transcripts of Recorded
Phone Calls of Defendant

Partial Transcript Attachment D-1

Call 10.62.0.21-70872fb00a3e0015751f265a4ba0a591 booking.wav

Time: 1:43-3:36

WINNER: And I do believe that I mean when I spoke with FBI, they were saying don't act like you're never coming back to your house again, um. But I am kinda almost preparing for that –

BILLY WINNER-DAVIS: Oh God.

WINNER: Um, so, um, obviously I don't expect you guys to drop everything and go do anything for Mina, but, the shelter will have her and Kathy knows, and we can surrender her or you can come pick her up.

BILLY WINNER-DAVIS: Ok.

WINNER: And maybe see, we can just see what's going on on Monday, but there are perishables in the fridge, and I might need someone to help me out with my house.

BILLY WINNER-DAVIS: Ok alright. So should we wait for Monday or should we, um, just, should we plan on - on heading up?

WINNER: Kathy will contact you and you should make the decision regarding Mina.

BILLY WINNER-DAVIS: Ok, I, well, of course I'll take her.

WINNER: Ok yeah so she will be, uh, she'll just need to be picked up probably when you guys come out to Augusta. But I know –

BILLY WINNER-DAVIS: Ok.

WINNER: Will help out and he can tell Kathy as much as she needs. But I had one phone call to make and I kinda had to call her because I had a bunch of FBI guys worrying about my dog. Like they were freaking out about my dog.

BILLY WINNER-DAVIS: Aww (sigh) that was sweet, that was sweet, yeah. Um, so, ok, so, um, so –

WINNER: Are you ok?

BILLY WINNER-DAVIS: Um, I'm a little startled, I'm a little scared for you. I'm scared. Um, but so should we just make plans on on heading up there and then, um, is it well –

WINNER: Yeah.

ATTACHMENT E-1

Partial Transcript Attachment D-2

Call 752ac5840a4200152ea446544f5f9f77 winner3.wav

Time: 7:53-8:38

WINNER: Nikki's getting picked up tonight from the shelter. I told Ms. Kathy that I'm not sure what my parents are going to be able to do, and the FBI only gave me five minutes to make phone calls -

BRITTY: I see.

WINNER: So I called her first, she's picking up Mina, and she has mom's phone number so as soon as mom and Gary get to Georgia they're going to go pick up Mina at least, and Nikki will stay back at the shelter, but they're safe and in the house.

BRITTY: Ok.

WINNER: Everybody was really worried about them when they searched my house. Bunch of dog people.

BRITTY: Bunch of dog people yeah.

Partial Transcript Attachment D-3

Call 758bb74a0a3e0015751f265a7517e6f1 winner4.wav

Time: 13:24-13:56

WINNER: And I just wanna see you guys, and I wanna see my cat and my dog. Oh I'm not gonna see my dog –

BILLY WINNER-DAVIS: Yeah I know.

WINNER: Visit her –

BILLY WINNER-DAVIS: Yeah, I know.

WINNER: I feel really bad, I didn't let her sleep with me Friday night cause I was –

BILLY WINNER-DAVIS: Aww.

WINNER: I know, we didn't snuggle. They let me hug her while we were waiting. They were searching the house, and I just went in the backyard and sat with her.

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Attachment F – Sketch of
Defendant's Home Created
June 3, 2017

DIAGRAM/SKETCH

PAGE 1 OF 2

GENERAL INFORMATION

DATE 06/03/2017

CASE ID AT-2173732

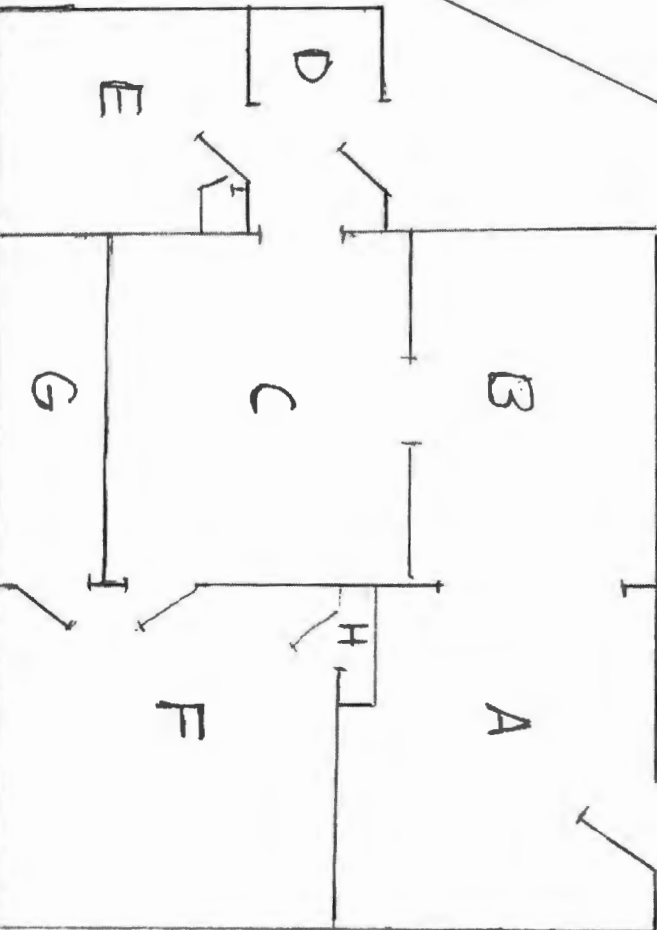
LOCATION 1957 Battle Row, Augusta GA

PREPARED/ASSISTANTS Marcus Kirkland

REFERENCE

SCALE or DISCLAIMER
COMPASS ORIENTATION
EVIDENCE
FIXED OBJECTS
MEASUREMENTS
KEY/LEGEND

NOT TO SCALE



Access Road

Battle Row